

MR. C. V. CHANDRASEKHARAN: I second it.

The motion was carried.

MR. KAYALAM PARAMESVARAN PILLAI: Sir, I wish to proceed with the second reading of this Bill. For that purpose I request you to be so good as to suspend the Standing Orders.

PRESIDENT: For the purpose indicated, I suspend the Standing Orders.

MR. KAYALAM PARAMESVARAN PILLAI: I move that the bill be taken to consideration.

MR. C. V. CHANDRASEKHARAN: I second it.

The motion was carried.

The question that Clauses 1, 2, the Preamble and the Title of the Bill be passed was then put and carried.

MR. KAYALAM PARAMESVARAN PILLAI: Sir, before I proceed to the third reading of the Bill, I beg to move that in Clause 1, sub-clause (b) for the word "on" the words "at once" be substituted.

MR. C. V. CHANDRASEKHARAN: I second it.

The amendment was put and carried.

MR. KAYALAM PARAMESVARAN PILLAI: I beg to move that the Bill as amended be passed.

The motion was put and carried and the Bill was passed.

THE TRAVANCORE TRADE DISPUTES BILL.

MR. KAYALAM PARAMESVARAN PILLAI: Sir, I beg to present the report of the Select Committee on the Travancore Trade Disputes Bill and move that the Bill as reported be taken into consideration.

MR. C. V. CHANDRASEKHARAN: I second it.

MR. KANNARA GOPALA PANICKER (*Mavelikara cum Kunnattur*): Sir, I move that the Travancore Trade Disputes Bill be recommitted to a Joint Committee of both the Houses of the Legislature.

MR. KAYALAM PARAMESVARAN PILLAI: Sir, I rise to a point of order. The motion is that the Bill should be *recommitted* to a Joint Committee. On the last occasion the Bill was committed to a Select Committee. The recommitment should therefore be to a Select Committee and not to a Joint Committee.

PRESIDENT: I think I must uphold the objection. As will be observed by the honourable members the motion for recommitment can only be made at the time when a Select Committee is sought to be appointed. It will be seen from Standing Order No. 41 that after the presentation of the report of the Select Committee by the member in charge the only motion possible is that the Bill be recommitted to a Select Committee of the same House. The motion for the appointment of a Joint Committee could only be made at the time when the original

motion for a Select Committee was made. I therefore hold that this motion is out of order.

The motion that the Bill be taken into consideration was put and carried.

Clause 1.

The question that Clause 1 do stand part of the Bill was put and carried. The Clause was added to the Bill.

PRESIDENT : We will take up the amendments to the title and the Preamble after finishing the remaining clauses.

Clause 2.

SRIMATI C. O. PONNAMMA (*Nominated*) : I beg to move the following motion :—

In Clause 2, sub-clause (d), line 4, after the word "directly" insert the words "or indirectly."

MR. V. K. VELAYUDHAN (*Ambalapuzha cum Shertalla*) : Sir, I may be permitted to make a suggestion. I request that this clause may be taken up after the House has come to a decision on Clauses 15, 16 and 17. If this House considers that Clauses 15, 16 and 17 may be deleted, then some of the definitions given in Clause 2 would be quite unnecessary. So as a matter of convenience I request that Clause 2 may be taken up afterwards.

PRESIDENT : In other words you move for a change in the order of business.

MR. KAYALAM PARAMESVARAN PILLAI : Sir, I have no objection. The House agreed to take up Clause 15.

Clause 15.

MR. P. K. KUNJU (*Quilon cum Kottarakara*) : Sir, I move that Clause 15 be deleted. Clause 15 runs as follows :—

"Any person who, being employed in a public utility service, goes on strike in breach of contract express or implied without having given to his employer and to the prescribed authority within one month before so striking, not less than fourteen days' previous notice in writing of his intention to go on strike or, having given such notice, goes on strike before the expiry thereof, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees or with both."

സർ, ഈ വകുപ്പു ഈ ബില്ലിൽ ഉൾപ്പെടുത്തിയിരിക്കുന്നതിന്റെ അനാശാസ്യതയെപ്പറ്റിയാണ് എനിക്ക് ചിലതു സംസാരിക്കുവാനുള്ളത്. തൊഴിലാളികളുടെ താൽപര്യത്തെ ഉദ്ദേശിച്ചല്ല ഈ വകുപ്പ് ഇതിൽ ഉൾപ്പെടുത്തിയിരിക്കുന്നത്. മുതലാളിമാരുടേയോ അല്ലെങ്കിൽ അതുപോലെ മുൻഗണനയുള്ള മറ്റാരുടേയോ താൽപര്യത്തെ പരിരക്ഷിക്കുന്നതിനുവേണ്ടി മാത്രമാണ് ഈ വകുപ്പ് ഈ ബില്ലിൽ ഉൾപ്പെടുത്തിയിരിക്കുന്നത്. ഈ നാട്ടിലെ വ്യവസായപരമായ

[Mr. P. K. Kunju.]

സ്ഥിതിഗതികളെ വെച്ചുകൊണ്ടു നോക്കുകയാണെങ്കിൽ ഇങ്ങനെ ഒരു രക്ഷാവവസ്ഥയുടെ ആവശ്യം ഇല്ലെന്നു കാണാവുന്നതാണ്. ഇവിടെ യൂറോപ്യൻ രാജ്യങ്ങളിലും മറ്റും നടക്കുന്നതുമാതിരി പണിമടക്കു എന്നൊരേപ്പാടില്ല. അങ്ങിനെ ഒരു ദുരിതം ഈ നാട്ടുകാർക്കു അഭവിക്കേണ്ടിവന്നിട്ടില്ല. ആ സ്ഥിതിക്കു ഈ നാട്ടിലെ തൊഴിലാളികളുടെ വളർച്ചയെ സാർമായി സ്പർശിക്കുന്ന ഇങ്ങനെയുള്ള വ്യവസ്ഥ ഉണ്ടാക്കിവയ്ക്കുന്നതു ശരിയാണോ എന്നാണു ഞാൻ ചോദിക്കുന്നത്. ഈ തരത്തിലുള്ള വ്യവസ്ഥകളോടുകൂടി ഒരു ബിൽ അവതരിപ്പിക്കണമെന്നു ഇവിടത്തെ തൊഴിലാളികളോ മുതലാളിമാരോ ആവശ്യപ്പെട്ടിട്ടുണ്ടെന്നു തോന്നുന്നില്ല. പണിമടക്കു ക്രിമിനൽ കുറ്റകരം ആണെന്നാണ് ഈ വകുപ്പുകൊണ്ടു തെളിഞ്ഞു കാണുന്നത്. എന്നാൽ മോഷ്ടക്കളേയോ കവർച്ചക്കാരോയോ കൊള്ളക്കാരോയോ കൊലപാതകികളേയോ ശിക്ഷിക്കുന്നതുപോലെ കേവലം ഒരുവന്റെ ജീവനസന്ധാരണത്തിനു ചേണ്ടിയുള്ള അവകാശസ്ഥാപനത്തിനായി പണിമടക്കം ചെയ്യുന്നവരേയും ക്രിമിനൽ കുറ്റവാളികളാണെന്നു നിശ്ചയിക്കുന്നതു വളരെ കഷ്ടമാണ്. കള്ളന്മാരും മറ്റും ചെയ്യുന്നമാതിരിയുള്ള നീചമായ പ്രവൃത്തിയല്ലാ പണിമടക്കുകൊണ്ടു ഉദ്ദേശിക്കുന്നത്. മുതലാളിമാർക്കു വ്യവസായ ശാലകളിൽനിന്നും കിട്ടിക്കൊണ്ടു തിരുന്ന ആദായത്തിനു അല്പമായ കുറവു വരുമെന്നല്ലാതെ പണിമടക്കുകൊണ്ടു രാജ്യത്തിനു യാതൊരുവിധമായ അസ്വസ്ഥതയും ഉണ്ടാകുന്നില്ല. ഈ പണിമടക്കനിമിത്തം ഉണ്ടാകാവുന്ന നഷ്ടത്തെ പരിഹരിക്കുന്നതിനു മുതലാളിമാർക്കു സിവിൽവകുപ്പുകളും സിവിൽക്കോടതികളും അഭയസ്ഥാനങ്ങളായിരിക്കുന്നുണ്ട്. ആ സ്ഥിതിക്കു ഈ പണിമടക്ക ക്രിമിനൽ ശിക്ഷക്കു പ്രേരകമായി ഭവിക്കണമെന്നു പറയുന്നതു വളരെ പരിതാപകരംതന്നെ. പണിമടക്കിന്റെ ഉദ്ദേശംതന്നെ എന്താണെന്നാണ് ഇനിനോക്കണ്ടതു്. കഠിനമായ ഭംഗാധാനം ചെയ്തിട്ടും മുക്കാലെമുണ്ടാണിയും പട്ടിണിയായി കഴിച്ചുകൂട്ടുന്ന ഈ സാധുക്കൾ എന്തിനാണു പണിമടക്കു നടത്തുന്നത്? തന്നിമിത്തം അവരുടെ ഭാര്യയും കുട്ടികളും മുഴുപ്പട്ടിണിയിലേക്കാണ് പോയിച്ചേരുന്നത്. നീതിക്കും ധർമ്മത്തിനും യോജിച്ചതായ ചില അവകാശങ്ങളെ സ്ഥാപിക്കുന്നതിനു വേണ്ടി മുതലാളിമാരോടു യാചിക്കുകയും, അവകാശപ്പെടുകയും, ചോദിക്കുകയും, പ്രാർത്ഥിക്കുകയും ചെയ്തിട്ടും ഫലമില്ലാതെ വരുമ്പോൾ അവരുടെ അവകാശത്തെ സ്ഥാപിച്ചു കിട്ടുന്നതിനു

ഈ മുതലാളിമാരെ സ്വല്പം വിഷമിപ്പിക്കണമെന്നുള്ളതാണ് പണിമുടക്കിന്റെ ഉദ്ദേശമെന്നു ഞാനും സമ്മതിക്കുന്നുണ്ട്. യാചനകൊണ്ടും മറ്റും ഫലമില്ലെന്നു കണ്ടാൽ അവരെ വിഷമിപ്പിച്ചെങ്കിലും തങ്ങളുടെ സകടത്തിനു പരിഹാരമുണ്ടാക്കാൻ സാധിക്കുമെന്നുള്ള ആശയം വിശ്വാസവുമാണ് പണിമുടക്കുനടത്തുന്നതിനു അവരെ പ്രേരിപ്പിക്കുന്നത്. അല്ലാതെ മുതലാളിമാരോടു ഇവക്കു യാതൊരു വൈരവും ഉണ്ടായിട്ടല്ലാ പണിമുടക്കുനടത്തുന്നത്. ഈ വിധത്തിൽ മാത്രമേ മുതലാളിമാരെ സ്വാധീനം ചെയ്യുന്നതിനും അവരുടെ കാര്യവും ആർജ്ജിക്കുന്നതിനും സാധിക്കുകയുള്ളുവെന്നു വരുമ്പോൾ കേവലം അവകാശസ്ഥാപനത്തിനായുള്ള പണിമുടക്ക് തെറ്റാണെന്നും ക്രിമിനൽശിക്ഷക്ക് പാത്രമാണെന്നും നിശ്ചയിച്ചാൽ അതു തൊഴിലാളികളുടെ വളർച്ചയെ സാരമായി ബാധിക്കുന്നതാണ്. അധികാരമുള്ള ഉദ്യോഗസ്ഥന്മാരിൽ ആക്കെങ്കിലും ന്യായമിരിക്കിട്ടേണ്ട അവകാശത്തെ അവഗണിച്ചു പ്രവർത്തിക്കുന്ന സന്ദർഭത്തിലൊ അല്ലെങ്കിൽ അവർക്കു ന്യായമായി കിട്ടാനുള്ള പ്രോത്സാഹനം ലഭിക്കാതെ അവരുടെ നേരെ അനീതി പ്രവർത്തിച്ചുവെന്ന് ബോധ്യപ്പെടുന്ന സന്ദർഭത്തിലൊ പ്രതിരോധസൂചകമായി ജോലിക്ക് പോകുന്നില്ല എന്ന് ഒരുദ്യോഗസ്ഥൻ വിചാരിക്കുന്നുവെങ്കിൽ ആ വിവരം മേലധികാരിയെപ്പറ്റി ദിവസത്തിനുമുമ്പ് അറിയിക്കണമെന്നും അല്ലെങ്കിൽ ഒരു മാസത്തെ കഠിനതടവിനോ, ഒരു രൂപ പിഴക്കോ, വിധേയനാക്കുമെന്നും പറയുന്നതുപോലെയാണു ഇത്. മുതലാളിമാരുടെ കീഴിൽ ജോലി ചെയ്യുകൊണ്ടിരിക്കുന്ന തൊഴിലാളിമാരുടെ താല്പര്യത്തിനു വിരുദ്ധമായി എന്തെങ്കിലും സംഭവിക്കുമ്പോൾ, ആ ജോലിയിൽനിന്ന് പിൻമാറ്റുകയോ ചോക്തിരിക്കയോ ചെയ്യുന്നതു കുറ്റകരമാണെന്ന് വ്യവസ്ഥ ചെയ്യുന്നതു തെറ്റാണെന്നും പറയാതെ നിവർത്തിയില്ല. മുതലാളിമാർക്കു പലവിധത്തിലുള്ള രക്ഷകളും ഇതു കൂടാതെ തന്നെ സുലഭമായി ലഭിക്കുന്നതാണ്. എന്നാൽ തൊഴിലാളികൾ ഇതു മാത്രമേ ഒരു അവലംബമായി കരുതാനുള്ളൂ. അതു കുറ്റകരമായി കരുതി ഒരു നിയമം സൃഷ്ടിക്കുന്നതു വലിയ കഷ്ടമാണ്. ഈ പണിമുടക്കു പൊതുജനങ്ങൾക്കു അസൗകര്യമുണ്ടാക്കുന്നു എന്ന കാരണത്താലാണ് ഈ വകുപ്പു ഈ ബില്ലിൽ ഉൾപ്പെടുത്തിയിരിക്കുന്നത്. പൊതുജനങ്ങൾ എന്നുവെച്ചാൽ ആരാണ് അവർക്കെന്തെ അസൗകര്യമുണ്ടാകുന്നു എന്നാണ് ഇനി നോക്കേണ്ടത്. കുറെ ഗവണ്മെൻറുദ്യോഗസ്ഥന്മാരും കുറെ മുതലാളിമാരും പണക്കാരും മാത്രമല്ല പൊതുജനങ്ങൾ എന്നു പറയപ്പെടുന്നവർ. തൊഴിലാളികൾ

[Mr. P. K. Kunju.]

എന്നു പറയുന്ന ആളുകളും മനുഷ്യരാണ് എന്നവിശ്വസിക്കുന്നുവെങ്കിൽ അവരും പൊതുജനങ്ങളിൽ ഉൾപ്പെട്ടവർതന്നെ. പൊതുജനങ്ങൾ എന്നു പറയേണ്ടതു വാസ്തവത്തിൽ അപരമായാണ്. ഈ രാജ്യത്തിലെ നാഗരീകരായ ആളുകളും ഭരതത്തിലെല്ലെങ്കിൽ മെറ്റാഭരതത്തിൽ തൊഴിലാളികളാണ്. ആ സ്ഥിതിക്കു ഇവിടത്തെ പൊതുജനങ്ങൾ തൊഴിലാളികളാണ്. അപർ ചെയ്യുന്ന പ്രവൃത്തിമൂലം ഉണ്ടാകാവുന്ന ഭരിതങ്ങൾ അവർതന്നെയാണെന്നുഭവിക്കേണ്ടതു്. അങ്ങിനെയിരിക്കേ അവർ ചെയ്യുന്ന പ്രവർത്തിയുടെ ഭരിതഫലങ്ങൾ മുതലാളിമാരും മറ്റുള്ളവരുമാണ് അനുഭവിക്കേണ്ടിവരുന്നതെന്ന് മനസ്സിലാക്കുവാൻ ഈ വകുപ്പ് നമ്മോടു അപ്രകൃതമായി ആവശ്യപ്പെടുന്നു. പണിമുടക്കുമൂലം ആകാണം കൂടുതൽ വിഷമമുണ്ടാകുന്നത്? മുതലാളിമാർക്കാണ്? വൻപിച്ച ആദായം ലഭിച്ചുകൊണ്ടിരിക്കുന്ന അവർക്ക് ഒരുപക്ഷെ പണിമുടക്കുമൂലം അവരുടെ ആദായത്തിന് അല്പം കറവു വന്നു എന്നുവരാം. എന്നാൽ തൊഴിലാളികളുടെ നില അതല്ല. അർദ്ധപ്പട്ടിണിക്കാരായ തൊഴിലാളികൾ പണിമുടക്കുമൂലം മുഴുപ്പട്ടിണിക്കാരായിത്തീരുകയാണ്. അതിനാൽ പണിമുടക്കുമൂലം ഒരു തൊഴിലാളിക്കുണ്ടാകാവുന്നതു സങ്കടം ഒരു മുതലാളിക്കുണ്ടാവുകയില്ലെന്നു നിശ്ചയമായും പറയാൻ കഴിയും. ഇങ്ങനെ അത്രമേൽ കഴുപ്പും ഭരിതവും വരുത്തിവക്കുവാൻ ഇടയുള്ള ഈ സാഹസം ചെയ്യുവാൻ ഒരു തൊഴിലാളിയെ പ്രേരിപ്പിക്കുന്ന ശക്തി ഏതാണെന്നാണ് ആലോചിക്കേണ്ടതു്. പതിന്നാലുദിവസത്തിനുമുമ്പ് നോട്ടീസുകൊടുത്തുകൊണ്ടുവേണം പണിമുടക്കു നടത്തുവാൻ എന്ന് ഈ വകുപ്പ് പറയുന്നു. കാലേകൂട്ടി ആലോചിച്ചു മുൻകൂട്ടി അറിയിപ്പുകൊടുത്തുതടുക്കുവാനുള്ള തക്കവടം സൗകര്യവും പണിമുടക്കുന്ന തൊഴിലാളികൾക്കു ലഭിച്ചു എന്നു വരുന്നതല്ല. പൊട്ടണുവന്നുപോയ സങ്കടവും തൻമൂലമുണ്ടായ ക്ഷോഭവും നിമിത്തം ധൂതഗതിയിൽ പണിമുടക്കുന്നതിലേക്കു തൊഴിലാളികൾ വഴിപ്പെട്ടു എന്നും വരാം. അവർക്കുള്ള സങ്കടവും കഷ്ടപ്പാടും പരിഹരിക്കുന്നതിനായി അവരുടെ പക്കലുള്ള ഏക ആയുധമാണ് ഈ പണിമുടക്കു്. ആ ആയുധം പ്രയോഗിക്കുന്നതിന് ഇന്നദിവസം നിശ്ചയിച്ചിരിക്കുന്നു എന്ന് കാലേകൂട്ടി പ്രവചിച്ചുകൊണ്ടു നോട്ടീസു കൊടുക്കുവാൻ അവർക്കു സാധിക്കുകയില്ല. അതു കേവലം അപ്രായോഗികമായ ഒരു കാര്യവുമാകട്ടെ. കാരണം, പതിന്നാലുദിവസത്തിനുമുമ്പ് നോട്ടീസുകൊടുക്കുകയാണെങ്കിൽ, അത്ര വലിയ ഒരു പ

ണിമുടക്കുകൊണ്ട് ഉണ്ടാകാവുന്ന സകലവിധ കഷ്ടപ്പാടുകളേയും ഇല്ലായ്മ ചെയ്യുവാനായി മുതലാളികളും മറ്റുള്ളവരും അവരുടെ സർവ്വ സ്വാധീനശക്തികളും ചെലുത്തും. അതു നിശ്ചയമായും തൊഴിലാളിയുടെ ആഗ്രഹത്തിനും അഭിലാഷത്തിനും എതിരായിരിക്കുകയും ചെയ്യും. ഏതൊരു പാധിയാണോ പണിമുടക്കുകാരെ അമർത്തുവാൻ കഴിയുന്നത് അതിനെ അവർ അനേചിച്ചിട്ടുണ്ടു്. അങ്ങിനെ മുതലാളിമാരുടെ സ്വാധീനവും ശക്തിയും ചെലുത്തി തൊഴിലാളികളുടെ പ്രവർത്തനത്തെ അമർത്താൻ അവരുടെ പണിമുടക്കിനുള്ള സകല വിടവുകളും അടച്ചുകൊണ്ടിരിക്കുന്നതിനും അവരുടെ പ്രവർത്തനങ്ങളെ പ്രതരോചിക്കുന്നതിനും ഒരുതരം 'കരുത്തുറപ്പുകൾ' അവിടെകൊണ്ടു നിറുത്തുന്നതിനും മുതലാളിമാർക്കു സാധിക്കുന്നതാണ്. ഇതു മൂലം മുതലാളിമാരോടു തൊഴിലാളികൾ മേലാൽ പണിമുടക്കു ഉണ്ടാക്കാതിരിക്കുന്നതിനുള്ള സകലവിധ വഴികളും ഉണ്ടാക്കിത്തീർക്കുവാൻ മുതലാളിമാർക്കു കഴിയുന്നതാണ്. അങ്ങിനെ പണിമുടക്കുകൊണ്ട് അവരുദ്ദേശിക്കുന്ന കാര്യങ്ങൾ വേലക്കാർക്കു സാധിക്കാതെ വരും എന്നുമാത്രമല്ല അവരെ ജോലിയിൽ നിന്നു വിടുർത്തുന്നതിനുള്ള സന്ദർഭവും മുതലാളിക്കു കിട്ടുന്നു. ഈ വിധം പണിമുടക്കിന്റെ ഉദ്ദേശത്തെത്തന്നെ നിഹനിക്കുന്നതിനുള്ള ഒരു ഉപാധിയായി ഈ വകുപ്പിനെ ഉപയോഗപ്പെടുത്തുവാൻ മുതലാളിക്കു കഴിയുന്നതാണ്. പക്ഷെ ഈ നിയമം ചാതിന്നാലു ദിവസങ്ങൾക്കുമുൻപു നോട്ടീസുകൊടുത്താൽ പണിമുടക്കിനു നിയമസാധുതപം ഉണ്ടെന്നു സിദ്ധാന്തിക്കുന്നുണ്ട്. നോട്ടീസ് കൊടുക്കാത്ത ഒരു കാര്യംകൊണ്ട് ഇതിനു നിയമസാധുതപം ഇല്ലാതെ വരുന്നതും തൊഴിലാളികളെ കുറ്റക്കാരാക്കുന്നതും ആ ഒരൊറ്റക്കാരണം കൊണ്ടുതന്നെ അവരെ ശിക്ഷിക്കാ എന്നു പറയുന്നതും ശരിയല്ല. ഈ ഒരു വ്യവസ്ഥ വച്ചുകൊണ്ടു പണിമുടക്കിനു നിയമസാധുതപം കല്പിക്കുന്നതു വെറും മേനിമിനുക്കത്തിനുവേണ്ടി മാത്രമായിരിക്കാം.

ഒരു തൊഴിലാളി ഇതിൽനിന്നും വിചാരിക്കേണ്ടതു് തൊഴിലാളികൾ അവരുടെ അവകാശം ചോദിക്കരുതു്, അതു വാങ്ങരുതു്, അവന്റെ ദയനീയതക്കു ഒരു മാറ്റം വരുത്താൻ ശ്രമിക്കരുതു എന്നൊക്കെയാണ്. മുതലാളിമാരുടെ ശക്തിയും സുഖവും ഭദ്രമായ യാതൊരു കല്പനയും കൂടാതെ സംരക്ഷിക്കണമെന്നുള്ള കാര്യമല്ലാതെ മറ്റെന്തെല്ലാം ഈ വകുപ്പുകൊണ്ട് ഉദ്ദേശിക്കുന്നതു്. പണിമുടക്കു നോട്ടീസുകൊടുക്കാതെ നടത്തിയാൽ നിയമലംഘനമാണെന്നു പറയുന്നതിനെക്കാൾ ഭേദം പണിമുടക്കുകയാണെങ്കിൽ ഇതു രൂപ പിഴയായി ഒടുക്കണം അല്ലെങ്കിൽ

[Mr. P. K. Kunju.]

തടവിലേക്കു അയക്കപ്പെടും എന്നുള്ള ഒരു വ്യവസ്ഥ ചെയ്യുന്നതായിരിക്കും. നോട്ടീസുകൊടുക്കണമെന്നുള്ള വ്യവസ്ഥ ആവശ്യമില്ല എന്നാണ്. എന്നു പറയുവാനുള്ളതു്.

ഇനി ഈ വകുപ്പു് എത്രമാത്രം പ്രാജോഗികമാകുമെന്ന് നമുക്കു ചിന്തിക്കാം. ഈ നിയമം എങ്ങനെ നടപ്പിൽ വരുത്തുവാൻ സാധിക്കും? നോട്ടീസുകൊടുക്കുന്നതെ പണിമുടക്കു നത്തുന്നവർ കുറവുമാകുന്നു. പണിമുടക്കുന്നവരെ എല്ലാവരെയും ശിക്ഷിക്കണം. സാധാരണയായി പത്തുപതിനായിരം തൊഴിലാളികൾ ഒന്നുചേർന്ന് സംഘടിക്കുകയും ആ സംഘടനയുടെ പേരിൽ പണിമുടക്കു് ആരംഭിക്കുകയും ചെയ്യുന്നു. ഈ സംരംഭത്തിൽ ആരെയാണു ശിക്ഷിക്കാൻ പോകുന്നതു്? എങ്ങനെയാണു് ആവരെയെല്ലാം ജയിലിലേയ്ക്കു അയക്കുന്നതു്? രാജ്യത്തിന്റെ അതിർത്തിയിൽ ചുറ്റും ഉയരത്തിൽ വലിയ ഭിത്തികെട്ടി ഇളകാത്ത ഒരു വാതലുമുട്ടു് ഉറപ്പുള്ള ഒരു പൂട്ടുമുണ്ടാക്കി ഇവരെയെല്ലാം അതിനകത്തിടുക എന്നുള്ളതു് എളുപ്പമുള്ള ഒരു കാര്യമാണോ? ബാംബേയിൽ ൧൯൩൪-ൽ ഉണ്ടായ സ്റ്റാവഞ്ചേഴ്സ് സ്ട്രൈക്കു ആരെക്കൊണ്ടും നയന്ത്രിക്കാൻ സാധിച്ചില്ല. അവിടെ ഈ ബിൽ പാസായതിനുശേഷമായിരുന്നു സ്ട്രൈക്കു നടന്നതു്. നോട്ടീ കൊടുത്തിട്ടില്ലായിരുന്നു. ഒടുവിൽ അവരെ മജിസ്ട്രേറ്റിന്റെ മുൻപാക്കു പ്രാസക്യൂട്ടുചെയ്തു. നോട്ടീസുകൊടുക്കാതെയിരുന്നെങ്കിലും അവരുടെ അവകാശം സ്ഥാപിക്കുന്നതിനായി നടത്തിയ ഈ പണിമുടക്കിനു ആരാണു നോട്ടീസു കൊടുക്കേണ്ടതെന്നു തീരുമാനിക്കാൻ സാധിക്കാതെ വന്നതിനാൽ അവർ ശിക്ഷാർഹരല്ലെന്നു മജിസ്ട്രേട്ടു വിധിക്കുകയാണുണ്ടായതു്. ആ കേസു ഫൈക്കോടതി വരെ പോയി എങ്കിലും അവിടെയും ആ വിധിയെ ശരിവക്കുകയാണുണ്ടായതു്.

ഈ വകുപ്പു് മറ്റൊരു ഭാഷയെയും ചെയ്യുന്നുണ്ടു്. തൊഴിലാളികളോടു് ഏതെങ്കിലും തരത്തിൽ ഭിന്നാനുകമ്പയുള്ള ആളുകളോ അല്ലെങ്കിൽ തൊഴിലാളിപ്രസ്ഥാനത്തിൽ താല്പര്യം കണിക്കുന്ന നേതാക്കന്മാരോ അവർ നടത്തുന്ന സ്ട്രൈക്കിൽ ഏതെങ്കിലും തരത്തിൽ ഉൾപ്പെടുന്നു എന്നുവരികിൽ അവരെക്കൂടി ഉപദ്രവിക്കുവാനുതകുന്ന ഒരു വകുപ്പായി തീരും ഇതു. അതിനാൽ നേതാ മില്ലാതെ അവരുടെ സംഘടന ശിഥിലമായിത്തീരുന്നതിനും അതുവഴി തൊഴിലാളിപ്രസ്ഥാനങ്ങൾ നശിക്കുന്നതിനും ഈ വകുപ്പു് ഉപയോഗപ്പെടും.

എന്താണ് പണിമുടക്കു? ഇത് നിരായുധരായ ദരിദ്രന്മാരായ തൊഴിലാളികളുടെ ഏക ആയുധം മാത്രമാണ്. ദരിദ്രരായ അവർ നിരന്തരം അധഃപാതിച്ചിട്ടും ഒരു നേരത്തെ ആഹാരത്തിനുള്ള വകുപ്പോലും കിട്ടുന്നില്ലെന്നുണ്ട്. ഇനിമേൽ തങ്ങൾക്കു ആ ജോലി ചെയ്യാൻ മനസ്സില്ലെന്നോ അതിന്നാഗ്രഹമില്ലെന്നോ തോന്നി അതിൽനിന്നും പിൻമാറിയിരിക്കുക എന്നുള്ളതുമാത്രമാണ് പണിമുടക്കു്. അവർ ഒരു കലഹവുമുണ്ടാക്കുന്നില്ല. കൊലപാതകം ചെയ്യുന്നില്ല, അങ്ങിയെയുള്ള മറ്റു അക്രമപ്രവർത്തികൾ യാതൊന്നും ചെയ്യുന്നില്ല. എന്നിങ്കു അധഃപാതം ചെയ്യാൻ ആഗ്രഹമില്ല എന്നു പറയുന്നതെ ഉള്ളു. അതിന് പതിനാലു ദിവസത്തെ നോട്ടീസുകൊടുത്തില്ലെങ്കിൽ ജയിലിൽ പോകണം. എനിക്കു ജോലി ചെയ്യാൻ ഇഷ്ടമില്ലെന്നു ഞാൻ ആഗ്രഹിക്കുന്നുണ്ടെങ്കിൽ ഞാൻ ആ വിവരത്തിന് നേരത്തെ നോട്ടീസുകൊടുക്കണം. ഇത് നീതിക്കനുയോജ്യമായിട്ടുള്ളതല്ല. അതിനാൽ തൊഴിലാളികൾക്കുണ്ടാകുന്ന സങ്കടം പരിഹരിച്ചു കിട്ടുവാൻ വേണ്ടി അവരുടെ ആഭ്യന്തരവും അവസാനത്തെയും ഏക അവലംബമായ ഈ പണിമുടക്കു ആയുധം പ്രയോഗിക്കുന്നതിന്നു പതിനാലുദിവസത്തെ നോട്ടീസുകൊടുത്തേ പാടുള്ളു എന്ന് ഈ ബില്ലിൽ വിവക്ഷിച്ചിരിക്കുന്നത് അവരെ മുഷിപ്പിക്കുന്നതല്ലെന്നുള്ള ഭയഭ്രമത്തോടു കൂടിയിരിക്കുന്ന ആളുകൾക്ക് അനുഗ്രഹപ്രദമായിരിക്കും. ഇതിനേക്കാൾ നല്ലത് മേൽപറഞ്ഞ ആളുകളുടെ കയ്യിൽ കുറെ ബിംബുകൾ കൊടുത്തു പണിമുടക്കു ചെയ്യുന്ന അവസരത്തിൽ അവരെ എറിഞ്ഞുക്കൊണ്ട് ഏർപ്പാടു ചെയ്യുകയാണ്. അതിനാൽ ഈ ദാരിദ്ര്യനാരായണന്മാരായ പാവങ്ങളുടെ, പട്ടിണിക്കാരായ ഈ യാചകന്മാരുടെ, മേൽ ചുമത്തുവാൻ വിചാരിക്കുന്ന ഈ വിഷമകരമായ വകുപ്പിനെ എടുത്തുകളയണമെന്ന് ഹൃദയവും മനുഷ്യത്വവുമുള്ള എന്റെ ബഹുമാനപ്പെട്ട സ്പീക്കർമാരോട് ഒരു തൊഴിലാളിയല്ലാത്ത ഞാൻ, തൊഴിലാളികളുടെ ഒരു മിത്രമെന്നു വിചാരിക്കുന്ന ഞാൻ അപേക്ഷിച്ചു കൊള്ളുന്നു.

MR. K. NARAYANAPERUMAL NADAR (*lovala cum Agasteeswaram*): Sir, I support the amendment. This clause deals with sudden strikes and lock-outs in public utility services. The expression "public utility service" is defined in Clause 2, (h) as follows:—

- (i) any railway or other transport service which Our Government may, by notification in Our Government Gazette declare to be a public utility service for the purposes of this Regulation, or
- (ii) any achanal, postal telegraph or telephone service; or
- (iii) any industry, business or undertaking which, supplies power, light or water to the public"

[Mr. K. Narayanaperumal Nadar.]

Regarding sudden strikes, there are two views. One school of opinion is that sudden strikes should be deprecated and the other school is that sudden strikes should not be deprecated. The Honourable Mr. V. V. Giri, Minister for Labour and Industries, belongs to the first category. In some of his speeches he has stated that sudden strikes should be deprecated. I have got his speeches from the "Hindu." Under the Rules, I cannot read them, and same honourable members may raise serious objections to reading them. I request the permission of the Chair for reading two or three lines.

PRESIDENT : The honourable member need not be under any apprehension. He can read what he likes; but I take it that the honourable member will make that part of his speech.

MR. K. NARAYANAPERUMAL NADAR : The speech was delivered on November 18th when he has deprecated sudden strikes. This is what he says :

"During the last three months, workers and their Unions were putting themselves in the wrong by sudden strikes. Strike was a perfectly legitimate weapon in the hands of the workers and nobody could deny them the right to strike."

I do not know what the Law Member will have to say on this point. Probably, quite contrary will be his view.

"But simply because they had it they should not use that weapon lightly. They should first have sound trade unions. They had the right to put forward, with all the authority they could command, their demands and grievances before their employers, but those demands should be just and reasonable, and they should create a solid public opinion in support of them. A strong, sound trade union with public opinion and the solidarity of its members behind it, could certainly make the employer come to terms with it."

The other school of thought is, that sudden strikes should not be deprecated. When I read the Proceedings of the [Indian Legislative Assembly, I found that some honourable members spoke vehemently about sudden strikes and opined that they should not be penalised. Unfortunately the motion was defeated by a narrow majority. Strike is the only weapon for the labourers. If that weapon is taken away from them, it is very easy for the capitalists to deceive the workers. Therefore that weapon should not be taken away from the labourers. Supposing notice is given 14 or 30 days before the strike, it will be easy for the capitalists to employ other labourers such as "blacklegs." Therefore there is no use in giving such notice to the employer.

Now it is stated that sudden strikes should be penalised. I ask, how can that be done? Suppose I enter into a contract with A, and if I break the contract, it is the duty of A to sue me for damages. No criminal action lies in that matter. Similarly if a sudden strike is brought about, it is the duty of the employer or the corporation, as the case may be, to sue for damages and not to penalise the labourers and put them in jail or fine them. This sort of criminal punishment suggested in the provision is certainly against principle.

MR. E. P. VARGHESE : (*Ambalapuzha cum Shertalla*) : May I ask the member, whether a sudden strike in the public utility service, will not give a lot of inconvenience to the public ?

PRESIDENT : If the member chooses to answer the question, he can.

MR. K. NARAYANAPERUMAL NADAR : I shall answer it at the fag-end of my speech.

PRESIDENT : Of course, the fag end of the thing is entirely at the member's own discretion.

MR. K. NARAYANAPERUMAL NADAR : No doubt, sudden strikes may cause *some* inconvenience to the public. There will be some sort of discontent and inconvenience to the public. Everybody has to put up with it. In a country like India, where the people are very poor, and especially the labourers who are poorer, and where the workers' conditions are hopeless, where there is no economic freedom but only economic exploitation, a country where the conditions of labour are intolerable, strikes must be legalised. Mr. Varghese has asked me the question whether a sudden strike does not cause some inconvenience to the public.

From the Census Report it will be found that 90 per cent. of the people here are labourers and only 5 per cent. capitalists. Therefore 90 per cent. of the people in India or any part of it are poor and only ten per cent. are rich. So how can it be said that a sudden strike in a public utility service will cause inconvenience to the general public ?

MR. E. P. VARGHESE : Suppose the scavengers go on strike on a particular day without giving notice ?

MR. K. NARAYANAPERUMAL NADAR : No doubt, it will create some inconvenience to the Municipal authorities. But it is the duty of the Municipality to see that the scavengers are not forced to resort to such means. They must be given proper wages and the condition of their services should be just. If that is done there will be no cause for complaint and there will not be any sudden strike. With these words, I support the amendment.

MR. J. E. A. PEREIRA (*Commerce and Industry, South*) : I rise to oppose the amendment. As a representative of the Commerce and Industry Constituency I will be failing in my duty if I do not repudiate some of the statements that fell from the lips of the mover of the amendment. At the outset I cannot understand the misapprehension on the part of the mover which, I believe, is due to his not appreciating the force of the first few words of the clause "Any person who, being employed in a public utility service, goes on strike in breach of contract express or implied". He has not appreciated first the difference between public utility service and private enterprise, and secondly the force of the word breach of contract. The mover grew eloquent over the allegation that employers got the maximum out of the labourers without giving living wages, etc. This clause contemplates only public utility services. But granting for argument's sake, that it contemplates

[Mr. J. E. A. Pereira.]

private enterprise, all that I can say, by way of reply is that no true capitalist can fail to appreciate the fact that on the contentment and prosperity of the labourers, the chance of his success mainly depends. If a capitalist does not appreciate this, his chances are doomed to failure.

Mr. Nadar's main contention is strike is the chief weapon by which the labourers can get their grievances redressed. I readily admit that. But, if they want to go on strike to get their grievances redressed, let them do so in a constitutional manner by giving a fortnight's notice. What is mainly contemplated in the clause is breach of contract. This point has not been appreciated either by the mover or seconder of the amendment. I submit what is contained in the clause is absolutely necessary for the preservation of order for the trade.

MR. K. R. NARAYANAN (*Vaikam cum Kottayam*): സർ, മി. പി. കെ. കണ്ണു പ്രസ്താവിച്ചതു പോലെ വകുപ്പു മുതൽ മുഴുവനോടെ എടുത്തുകളയണമെന്നാണ് എന്റെ വിനീതമായ അഭിപ്രായം. എന്റെ ബഹുമാന്യന്മാരായ രണ്ടു സ്പെഷ്യാലിസ്റ്റുകൾ പറഞ്ഞ എല്ലാ അഭിപ്രായങ്ങളുടെയും കാര്യമായി എനിക്കു ഇത്രമാത്രമേ പറയാനുള്ളൂ. ഒരു തൊഴിലാളി പണിമുടക്കു നടത്തുവാൻ പാടില്ലെന്നു പറയുന്നത് ഒരു മുതലാളി ഫാക്ടറി നടത്തുവാൻ പാടില്ല എന്നു പറയുന്നതുപോലെ തന്നെ അനീതിയും അവരവരുടെ മേൽ കൈമാറിയ അവകാശത്തിന്മേൽ കൈവക്കുന്ന ഒരു സംപ്രദായവുമാണെന്നു. മുതലാളികളെ ഫാക്ടറി നടത്തുവാൻ അനുവദിക്കുന്നതുപോലെ തന്നെ പണിമുടക്കു നടത്തുന്നതിന്നു തൊഴിലാളികളെയും അനുവദിക്കേണ്ടതാണ്. എന്നാൽ ഈ വകുപ്പു മൂലം തൊഴിലാളികളുടെ മേൽ കർശമായ നിയമം ഉപയോഗിച്ചു അവരുടെ മൗലികാവകാശം തടഞ്ഞിരിക്കുന്നു. അതു ശരിയല്ല. ഇതിന്നു എതിരായി മറ്റൊരു പ്രധാനകാരണം പറഞ്ഞുകാണുന്നത് പണിമുടക്കുമ്പോൾ പൊതുജനങ്ങൾക്കു അസൗകര്യങ്ങൾ വരുണമെന്നാണ്. മി. നാരായണപെരുമാൾനാടാർ പറഞ്ഞതുപോലെ അങ്ങിനെയുള്ള ഏതെങ്കിലും പൊതുവായ അസൗകര്യം വരുമ്പോൾ അതിൽ വെച്ചുണ്ടാകാവുന്ന അസ്വസ്ഥതകളുടെ സിംഹഭാഗവും അനുഭവിക്കേണ്ടവർ തൊഴിലാളികളാണെന്നു കൂടി ചിന്തിക്കേണ്ടതാണ്. അങ്ങിനെയുള്ള അസൗകര്യങ്ങൾ സ്വയം ഉണ്ടാക്കുന്ന ഒരു കാര്യത്തിന് അവർ കരുതിക്കൂട്ടി ഇറങ്ങിപ്പറപ്പെടുമെന്നു വിചാരിക്കുവാൻ നിവർത്തിയില്ല. പണമുടക്കിൽ ഏർപ്പെടുന്നതിന്നു ഒരു തൊഴിലാളിക്ക് ഒരിക്കലും ഇഷ്ടമുണ്ടാകുന്നതല്ല,

ഒരു ഗതാഗതവുമില്ലാത്ത സന്ദർഭത്തിൽ മുതലാളിയുടെ പക്കൽനിന്ന ഒരു കരുണയും കിട്ടുകയില്ല എന്നു കാണുന്ന ഒരു സന്ദർഭത്തിൽ അല്ലാതെ എല്ലാദിവസവും എല്ലാമണിക്കൂറിലും പണിമുടക്കുന്നതും എന്നു വിചാരിക്കുവാൻ പണിമുടക്കുകളുടെ ചരിത്രം അനുവദിക്കുന്നില്ല. ഒരു കൂടിസൂക്ഷിച്ചുനോക്കിയാൽ ഇരുവശവും ഒരുപോലെ മുർച്ചയുള്ള ഒരു യുദ്ധമാണ് പണിമുടക്കു്. അത് മുതലാളിയുടെനേരെ എത്ര നിശിതമായി പായുമോ അത്രയുമോ അതിൽ കൂടുതലോ നിശിതമായി അത് തൊഴിലാളിയുടെ നേരെപായും. പണിമുടക്കുകാണ്ടു് മുതലാളിക്കു ആദായത്തിൽ അൽപ്പം നഷ്ടം വരുമെന്നുള്ളതു്. അതുകൊണ്ടു് തൊഴിലാളിക്കുണ്ടാകുന്നതു് കഷ്ടപ്പാടും പട്ടിണിയുമാണ്. അതിനാൽ പ്രായേണ തൊഴിലാളികളോ തൊഴിലാളിസ്ഥാപനങ്ങളോ പണിമുടക്കു് അംഗീകരിക്കാറില്ല ഈ കാരണത്താൽ മുൻപ് പറഞ്ഞ ആ വാദവും ശരിയാണെന്നു് വിശ്വസിക്കുവാൻ തരമില്ലാതെയിരിക്കുന്നു. മറെറൊരു ന്യായം പറയുന്നതു് ഇവിടത്തെ വ്യവസായങ്ങൾ ബാല്യദശയിലായിരിക്കുന്നതിനാൽ തൊഴിലാളിസംഘങ്ങളെ ഇപ്പോഴോടെ വിടുന്നതു് ഈ രാജ്യത്തിന്റെ വ്യവസായികമായ പുരോഗതിക്കു ഹാനികരമാണെന്നാണ്. വളരെ അനുഭാവത്തോടുകൂടി ഈ ഒരു കാര്യം ഞങ്ങൾ സമ്മതിക്കുന്നു.

ഇവിടത്തെ പാക്ടറിപ്രവർത്തനങ്ങൾ ബാല്യദശയിലാണിരിക്കുന്നതെന്നുള്ളതിന്നു തർക്കമില്ല. എന്നാൽ അതുപോലെ തന്നെയോ അതിൽകൂടുതലായോ തൊഴിലാളി സംഘടനകളും സ്ഥാപനങ്ങളും ബാല്യദശയിലാണ് ഇരിക്കുന്നതു്. അവയെ കാരണത്തോടുകൂടി സംരക്ഷിച്ചുകൊണ്ടുപോകേണ്ട ചുമതല മുതലാളിമാർക്കു്കൂടി ഉള്ളതാണ്. തൊഴിലാളികളുടെ ഭാഗത്തുനിന്നും ഏറ്റവും പരിമിതമായ ഇങ്ങനെയുള്ള ചില അനുകൂലങ്ങൾ ആവശ്യപ്പെടുമ്പോൾ അതിനെ മുതലാളി പക്ഷക്കാർ ഇത്ര ആവേശത്തോടുകൂടി എതിർക്കുന്നതു് കാരണവശമാണ്, ഈ ഒരു യുദ്ധമെങ്കിലും അവരുടെ കൈയ്യിൽനിന്നും കൊണ്ടുപോകരുതെന്നു നിർബന്ധമായി പറയേണ്ടിവരുന്നതു്.

ഈ വകുപ്പു് പലപ്രകാരത്തിൽ അപ്രായോഗികവുമാണ്. പതിനാലു ദിവസത്തേ നോട്ടീസു കൊടുത്തുകൊണ്ടു് ഒരു പണിമുടക്കു നടത്തുക എന്നവചാൽ ഒരു പ്രകാരത്തിലും അതു സാധ്യമല്ല. എന്റെ സ്വന്തം അഭിപ്രായം പറയുവാൻ തൊഴിലാളികളുടെ അഭിമാനം അനുവദിക്കുന്നപക്ഷം മുതലാളിമാർ മുകളിൽ കയറിട്ടു് പിടിച്ചുകൊണ്ടിരിക്കുന്ന ഇരുകാലിമാടുകളാണ് തൊഴിലാളികൾ. അങ്ങിനെ ഉള്ള ഒരു

[Mr. K. R. Narayanan.]

ലാളികൾ പതിനാലുദിവസത്തെ നോട്ടീസ് കൊടുത്തുകൊണ്ട് പണിമുടക്കു നടത്തണമെന്നു പറയുന്നത്, കൊക്കിനെ പിടിക്കുവാൻ വെണ്ണ വാങ്ങിച്ച് കൊക്കിന്റെ തലയിൽ വെച്ച് കണ്ണുകാണാൻ പാടില്ലാതാക്കി പിടിച്ചുകൊള്ളണം എന്നു പറയുന്നതിനെക്കാൾ ഒട്ടേറെന്നെ മെച്ചമല്ല.

ഈ വകുപ്പുകൊണ്ടു വരാവുന്ന മറ്റൊരു പ്രയാസം തൊഴിലാളി പ്രസ്ഥാനങ്ങളെ സ്നേഹിച്ചുകൊണ്ട് നടക്കുന്ന പ്രമാണികൾക്കു ഇങ്ങനെയൊരു നിയമം പാസ്സാക്കുന്നതും വലിയ വിഷമതയുണ്ടാകുമെന്നുള്ളതാണ്. ന്യായമായുള്ള ഒരു പ്രവർത്തി ചെയ്യുന്നതിനെ നിയമ ലംഘനമാക്കിത്തീർക്കുന്ന അവസ്ഥ ഒരിക്കലും ആശാസ്യമായിട്ടുള്ള ഒന്നല്ല.

മറ്റൊരുകാരുംകൂടി നാം ആലോചിക്കണം. തൊഴിലാളികൾ എന്നു പറഞ്ഞാലും മുതലാളികൾ എന്നു പറഞ്ഞാലും ഒരു താൽപര്യത്തിനു വേണ്ടി, രാജ്യത്തിന്റെ പൊതുവായ അഭിവൃദ്ധിക്കുവേണ്ടി, വേലചെയ്യുന്നവരാണെന്നുള്ള പരമാർത്ഥം മറച്ചു വയ്ക്കാവുന്നതല്ലല്ലോ. അതിലേക്കു അവർ ഇരുവരും പരിശ്രമമേകുന്ന മൂലധനവും നാണയമാകുന്ന മൂലധനവുകൂടി ഒരുമിച്ചു വിനിയോഗിച്ചു രണ്ടുകൂട്ടക്കാരടേയും അഭിവൃദ്ധിക്കുവേണ്ടി മുന്നോട്ടു പോകുകയാണെന്നുള്ള പരമാർത്ഥം മനസ്സിലാക്കുമ്പോൾ സ്കൈക്കു എന്ന പദംകൊണ്ട് വിഷമിക്കേണ്ട ആവശ്യം എന്താണ്? അതിനാൽ കരുണാകരന്മാരായ മുതലാളിമാർ അനുകമ്പാപൂർവ്വം ആലോചിച്ച് പണിമുടക്കു എന്നുള്ള ഈ ഒരു ആയുധമെങ്കിലും അവരുടെ കയ്യിൽനിന്നും എടുക്കരുതെന്നുള്ള എന്റെ അഭിപ്രായം രേഖപ്പെടുത്തുകയും അതിനായി വിനയപൂർവ്വം അപേക്ഷിക്കുകയും ചെയ്യുന്നു.

MR. JOSEPH VITHAYATHIL : Sir, I wish to support the amendment before the House. On the face of it this clause seems to be rather reasonable and harmless because it applies only to certain services in the conduct of which the public are specially interested. From a theoretical point of view all services are of public utility because the public are in a way affected by all services. Even ordinary commerce or trade, in a way affects the general public. So from that point of view there is no logic in marking out certain services as services of public utility. The fact that any service or trade will affect the general public is recognised by this Bill itself. Clause 16 relates to general strikes which may have the effect of affecting the general public. So all services are in a way of public utility. Yet from a

practical point of view it is reasonable to mark out certain services the dislocation of which will cause great inconvenience to the public. The clause applies only to such services. Then it may be said that strikes even in such services are not penalised and only the omission to give notice is penalised. Therefore it might appear that this is a rather harmless provision. But when we go deep into the matter it practically amounts to penalising such strikes. That is, it makes strikes practically impossible and meaningless. What is the sanction behind a strike? The sanction is the hardship that is intended to cause upon the employers and, to a certain extent, upon the general public. It is only when a strike causes any hardship upon the employers that they awaken to the justice of the demand of the labourers. Similarly the public also will enquire into the matter only when they are affected. So the strike is intended to produce some effect upon the employers and the general public. Even this Bill recognises the right of strike as such. It is recognised as a means by which the labourers can get their grievances redressed. If you admit that strike is an inherent right of the labourers is it justifiable to deprive the labourers of this right with regard to public utility services? As I said before public utility services are services the dislocation of which might naturally cause great inconvenience to the general public. So perhaps it may be justifiable to ask the labourers to give up their right to strike with regard to public utility services for the sake of the common good of the community. In fact individuals are very often called upon to give up some of their rights for the sake of the good of the community. Even admitting the force of this contention, what I have to ask is, while depriving the labourer of his right to strike do we guarantee anything for his protection? The sanction behind a strike is the hardship that is intended to be caused upon the public. If the labourers are to give 14 days' notice certainly the employers can make the necessary arrangements to make the strike ineffective by engaging 'black legs.' In that case the strike will not take place as a matter of fact. A strike after 14 days' notice ceases to be a strike. If the strike should have any effect it should affect the employers. If after giving 14 days' notice if you propose to make a strike there will be people to take up your place and all necessary arrangements will be made by the employers to see that the strike does not prejudice them or the public. If a strike should be an effective strike it should be a sudden one. So virtually asking the strikers to give 14 days' notice amounts to asking them not to strike. Moreover there is a corresponding right given to the employers to give a notice of lock-out before 14 days. Of course if the labourers give notice of strike before 14 days the employers will make arrangements to engage 'black legs' and see that the strike has no effect. What will be the position of the labourers? After 14 days from getting a notice from the employers they are bound to go out of work. So not only will their strike have no effect, but also they will be thrown out of employment. Thus although this clause may appear only to be a reasonable condition which the employees are asked to fulfil before they strike it amounts to making a strike meaningless and also impossible. Before asking the labourers

[Mr. Joseph Vithayathil.]

to deprive themselves of their inherent right it is necessary to make provision to safeguard their interests. It may be argued that there are certain similar enactments in England, Canada and other parts of the world. But in those places we find that there are measures adopted for safeguarding the interests of the labourers. But is there any similar enactment here to safeguard the interests of the labourers and to redress their grievances? In other parts of the world we find so many measures to safeguard the interests of the labourers. There are the labour councils, labour boards and employment bureaus, system of old-age pension and unemployment dole system. But so far as we are concerned, where is the guarantee to safeguard the interests of labour?

Here we are depriving the labourer of his inherent right. At the same time we do nothing as a guarantee to safeguard his interests. If his demand is a reasonable one, is there anything to compel the Government or to coerce the employer to accede to his demand? Therefore, my submission is that before we enact this measure it is necessary to adopt suitable ameliorative measures as a condition precedent. Here, labour is not at all a power. Whereas in England, where a similar enactment was passed as a result of the general strike, labour is a tremendous, well-organized power. It can create much hardship upon the general public by means of strikes. Here, labour is in the infant stage and it is only proper to do all that is necessary to encourage trade union movements so that Labour can stand on its own legs. In the present Bill we are doing nothing to safeguard the interests of labour. The result will naturally be industrial unrest in the country; and it will only have very bad consequences so far as public safety itself is concerned. So, my submission is that before introducing measures for ameliorating the conditions of labour it is not at all proper to enact this clause which is practically depriving the labourer of his right to strike. Of course, it is said in the clause that the question of giving 14 days' notice arises only when there is a breach of contract. Breach of contract is essentially of a civil nature; and the party who suffers is entitled to damages in a civil court. But here we are penalising it for the sake of the general public. Under the present conditions this liability for damages without a penal statute is a sufficient deterrent to prevent a labourer from breaking the contract of services even with regard to public utility services. And, on principle it is objectionable, because we recognise the right to strike and there is the civil remedy for the party who suffers from the breach of contract. This act is made an offence even if there is no criminal intention. It is against the principle of criminal law.

In England in the case of a similar enactment we find that criminal intention is necessary. In that respect also this clause is defective. This clause prevents a labourer from getting his real grievance redressed. My submission is that as we are progressing from status to contract this provision is making us go back from contract to status.

Yet provided there are sufficient provisions for safeguarding the interests of the labourer there is no objection in enacting this clause. With these words I support the amendment.

MR. V. K. VELAYUDHAN: I support the motion for deleting clause 15. This Bill, as I understand it, is intended for settling differences between labour and capital amicably. Sections 1 to 14, I think, are intended for that purpose; but when we come to Section 15, we find that it seems to be intended to deprive labour of the power... ..

MR. A. THANU PILLAI (*Trivandrum-Town*): Will the honourable member kindly speak a little louder?

MR. V. K. VELAYUDHAN: Section 15 seems to be intended to deprive the poor labourer of his fundamental right to exercise the option to work or not to work, which is an elementary and fundamental right of a citizen. When we view the whole Bill in its broad aspects this Section defeats the very purpose for which this Bill as a whole is intended, *viz.*, the settling of differences amicably between capital and labour. The labourer who does not want to work according to this clause, must give 14 day's notice. During these 14 days he must remain within the factory, within his place of business, against his will and pleasure. This will only embitter feelings and prolong the agony and instead of creating a situation for settling the difference amicably will only worsen the situation. Viewed in that aspect my humble submission is that this Section 15 is against the very spirit of this Bill. It is said that public convenience is the primary consideration in such matters. I may point out an analogy. This Bill affects only the poor illiterate section of the society. It has no application to the more enlightened and the more educated section of the public. Take for example the staff in the Secretariat. Let us imagine that all the staff conjointly abstained from turning up in the office. I need not say that the whole country will be affected by such an action on the part of the members of the Secretariat staff. The inconvenience and hardships that would ensue from such a course will be felt throughout the length and breadth of the country. Yet I ask in all seriousness, is there any provision for sending these strikers to jail? If they can escape such a punishment why should the poor labourer alone suffer. When we come to the labourer to whom strike is the only weapon.....

MR. A. THANU PILLAI: May I know from the member whether in the event of the whole Secretariat staff going out on strike there will be any dearth for substitutes? (*Laughter*)

MR. V. K. VELAYUDHAN: It is not a question of substitutes. I was pointing out that the literate and enlightened section of the public can go on strike with impunity.

MR. M. SIVATANU PILLAI (*Tovala cum Agasteeswaram*): Sir, or a point of order. Is it permissible for the honourable member to take suggestions from another member?

PRESIDENT: Other honourable members are not supposed to look on such transactions (*laugher*).

MR. V. K. VELAYUDHAN : I was submitting that strike is the only weapon in the hands of the worker. Some honourable members of this House seem to tackle this problem rather light-heartedly. Strike, if you will seriously face the problem, is a double-edged sword. I can speak on this point with some experience. There have been some strikes at Alleppey. I myself had to do something with it. In every case the labourers who went on strike had to face severe hardships and starvation. Therefore I appeal to you not to view this problem in a light-hearted manner. Nobody, you may be sure, will go on strike simply for the sake of fun. When the labourer finds that all other means for ventilating his grievance have become futile he resorts to strike. He might have petitioned to his employer, he might have sent representations for conciliation through his representatives and an interview might have been refused by his employer. When he has exhausted all possible means of settlement he goes on strike. That is what actually happens. By enacting this Section you are really taking away from him his only effective weapon for settling differences with his employer. About the inconvenience that may be caused to the public, my submission is that the efficacy of the strike depends upon the inconvenience caused to the general public and to the employer. If nobody is going to suffer as a result of a strike what is the value or the force in a strike? To me it appears that to prevent a strike on the ground of public convenience is only begging the question. The very intention of the strike is to cause inconvenience and hardship to the employer and thereby to induce him to accede to the demands of labour and also to enlist the sympathy of the public in their cause. Therefore on that ground I cannot see my way to accept this clause as it stands.

I may add one very important circumstance for the consideration of this House. I think I am right in saying that everybody in this House will gladly support any measure that is calculated to promote organisations in this country for the creation of better understanding between capital and labour. I think that the same sentiments have been given expression to on many an occasion. What will be the result if this clause is passed into law? Instead of helping trade unions it will only stifle their growth. If labour unions have no right to strike what are the organisations for? If this right is taken away, you may be assured that no organisations on trade union lines are going to spring into existence in this State. We all look down with contempt on communalism. How to get out of this problem? The communal tension in this country has risen to such a pitch that it has really begun to eat into the very vitals of the society in our State. How to prevent it. I find a real and substantial remedy. That is to allow trade unions to grow on healthy and sound lines. Really if an impetus is given to labour organisations to thrive on economic lines this communal problem can be solved. But that remedy is being taken away by inserting Clause 15 in this Bill by which you are doing a great harm to the State as a whole. Not only to the poor worker but also to the factory owners this clause will work injury. It

has been rightly pointed out that the only purpose that will be served by Clause 15 will be to give a powerful weapon in the hands of the employer. He gets 14 days' time. It has been pointed out that he can very easily avail himself of the services of 'black legs' and thereby defeat the purpose of the strikers. In a country like England I can understand the passing of such a measure in the name of public utility. But here conditions are different. If it is the interest of the public that is sought to be safeguarded the interest of the labourers who form the bulk of the public should also be looked into. In England they have maternity schemes and provisions for old age pensions. There are also provisions like compulsory education of the children of the labourers. But what is the condition in this state? Labourers are neglected. The labour movement is in the infant stage. At this stage it behoves everyone of us and even the employer, in the interest of the industry itself, to promote and encourage trade unions and labour organisations.

I may close my remarks by appealing to you all to view this question not as a party question. There is no politics in this question. Every one of us must face this problem without bias or prejudice. With these remarks I appeal to you.....

PRESIDENT : The honourable member will address the Chair.

MR. V. K. VELAYUDHAN : Excuse me, Sir : Another point which have to deal with is in regard to the futility of passing this measure. In the case of a strike it will be seen that there are hundreds of workers joined together to get out of the factory. It is the workers who go out of work. The effect of this clause will be that some of their leaders especially the brains among them will be caught hold of and they will be victimised. And the real worker who goes on strike generally escapes because it will not be feasible to take action against thousands of workers and the experience in British India will amply prove the truth of my statement. Then lastly I may press one point more. This piece of legislation affects only the working classes, who are also citizens first and labourers second. As I have already observed every citizen in the State, whether he is a workman or not, whether he is rich or poor, must enjoy the same rights of citizenship. That is a point on which there can be possibly no difference of opinion. In the case of the rich and the educated they can do work or stop work at their own discretion whenever they choose. But why should there be a discrimination against the poor worker? I think all will agree with me on this aspect of the question, namely, that, apart from the question of labour interests, it infringes fundamental rights of citizenship. With these remarks, I request the whole House to join with me in condemning the present clause of the Bill.

MR. KAYALAM PARAMESVARAN PILLAI : I rise to oppose the amendment. I would most heartily agree to Mr. Velayudhan's appeal that this question should not be treated as a party question and I would request the members of the Samyukta party also to join with me in supporting the provision in the Bill if they are convinced that it is correct. (*Hear, hear.*)

[Mr. Kayalam Paramesvaran Pillai.]

I may just point out to the honourable members, to Messrs. Kunju and Vithayathil especially, that the general question of strikes and the right to resort to them are quite irrelevant to this clause. This clause does not lay down any restriction on strikes or the right to resort to them. That general question will perhaps arise when we go to the next clause, No. 16.

To remove one misapprehension expressed by some of the honourable members who oppose the present provision, I may just point out to them that, in this clause there is an identical prohibition of lock-outs also without notice by the employer. Therefore there is no question of the employer being in any manner helped by means of this provision. To think so is a misapprehension.

Further, this clause operates only as regards what are called public utility services. Now, what are they? They are either Government or quasi-Government concerns, or concerns recognised by the Government. I would request the honourable members to study carefully the definition of public utility services given in Clause 2. This is the definition:—

"2 (h) 'public utility service' means:—

(i) any railway or other transport service which Our Government may, by notification in Our Government Gazette, declare to be a public utility service for the purpose of this Regulation;

So, it is not all transport concerns that are recognised as 'public utility services'; but only those that are declared as such by the Government.

Then again in clause (ii)

"any achnal, postal, telegraph or telephone service; and in clause (ii) "any industry, business, or undertaking which supplies power, light or water to the public; "

At present, it is only the Government that undertakes the supply of light power, or water. Later on, it may happen that private concerns are also allowed to do it; but even then, Government will have the control.

And in clause (4)

"any system of public conservancy or sanitation;

This is a concern of municipalities or local authorities. Therefore, honourable members will kindly note that we are not concerned with private factories like coir or rubber factories, but only with concerns of general public interest, such as telegraph, telephone, transport and sanitation, which are controlled by Government. There is therefore no question, so far as this provision is concerned, of any private employer being helped.

MR. N. V. JOSEPH (*Meenachil cum Todupuzha*) Has there been any instance, so far, of strikes in public utility services?

MR. KAYALAM PARAMESVARAN PILLAI: I have heard that some time ago, the scavengers of the Trivandrum Municipality went on strike. I do not know the particulars.

MR. K. NARAYANAPERUMAL NADAR : For how many days did the scavengers' strike last?

MR. KAYALAM PARAMESVARAN PILLAI : It was a long time ago and continued for some days I think and caused a lot of inconvenience to the public of Trivandrum.

As I was saying, Sir, this provision is intended in the interests of the general public and not to help any private employer or to injure any labourer.

MR. E. P. VARGHESE : Will it not be sufficient punishment to the labourers who strike without notice to deny them re-employment instead of putting them in jail?

MR. KAYALAM PARAMESVARAN PILLAI : That is a matter of opinion. It is considered that, having regard to the inconvenience caused to the general public, some criminal punishment is necessary and that such punishment will alone be sufficient deterrent. In these strikes the injury is to the general community. Suppose for example the employees of the Water Works Department struck work all on a sudden without giving any notice. What will be the inconvenience caused to the general public? What will be the position of the ordinary labourers themselves? Surely, it will be admitted that there are a number of labourers in this town. What will they do for their water? In the same way, suppose the workers in a transport system struck work one fine morning, or the workers who distribute milk struck work. Where will the labourers themselves go for their food or milk and how will they move about or go to their work?

As I have already pointed out, there is no question here of any private employer, the owner, say, of a coir, rubber or other factory, being helped in any manner. We are dealing with Government or quasi-Government concerns which serve the general body politic. I would ask the honourable members to consider whether it will be wise to allow the employees in such concerns to strike without notice, and to consider the serious consequences of such strikes. I would also request the honourable members to distinguish between ordinary inconvenience incidental to the labourers' fighting for their rights, and the great and supreme public inconvenience that will be caused by strikes without notice in public utility services like the concerns that supply water, or light or are engaged in transport or sanitation.

Sir, the provision in our Bill is not quite new. It is identical to that in the Indian Act, and far less rigorous than the corresponding provision of the English Act. I request the permission of the House to refer to the provision in the Indian Act and the English Act.

The Indian Act provides.

- "15. (1) Any person who, being employed in a public utility services, goes on strike in breach of contract without having given to his employer, within one month before so striking, not less than fourteen days' previous notice in writing of his intention to go on strike or, having given such notice, goes on strike before the expiry thereof, shall be punishable with imprisonment which may extend to fifty rupees, or with both.

The English provision is in Section 6 (4) of the English Trade Disputes and Trade Union Act 1927. It is this :

[Mr. Kayalam Paramesvaran Pillai.]

"If any person employed by a local or other public authority wilfully breaks a contract of service with that authority knowing or having reasonable cause to believe that the probable consequence of his so doing, either alone or in combination with others will be to cause injury danger or grave inconvenience to the community he shall be liable on summary conviction to a fine or to imprisonment for a term not exceeding six months."

Thus, while according to the Indian Act and the Bill before the House the labourers can give notice and then strike work; according to the English Act, even after giving notice, a contract for service cannot be broken, in the case of what in effect is a public utility services,

MR. KOTTALIL P. ABRAHAM (*Muvattupuzha cum Devicolum*) : Then, why not accept the provision in the English Act?

MR. KAYALAM PARAMESVARAN PILLAI : I have no objection ; but that is much more rigorous than the present provision ; perhaps it is not time yet for us to go so far.

MR. E. P. VARGHESE : Is not the definition of public utility service contained in the present Bill less specific and less definite than the definition in the English Act, and as such liable to include anything?

MR. KAYALAM PARAMESVARAN PILLAI : I do not think so, unless my honourable friend is going to apprehend that all manner of private concerns even a jutka service for instance will be recognised by the Government, for the purpose of this Section.

Sir, this provision must always be read with the definition of 'public utility services'.

PRESIDENT : May I ask the Law Member whether the definition of 'public utility services' in the English Act would not include even an accountant under a Village Panchayat?

MR. KAYALAM PARAMESVARAN PILLAI : Yes, Sir ; we are not going so far.

And then again, there must be a *strike* unlike the English Act. And what is a strike? The present Bill says:—

"A strike means a cessation of work by a body of persons employed in any trade or industry acting in combination, or a concerted refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment ;

Therefore, it is only concerted action that will amount to a strike according to our Bill, whereas, under the English Act, even a single individual breaking a contract of service, in the case of public utility services, is liable to punishment.

MR. JOSEPH VITHAYATHIL : May I ask whether there is any provision in the present clause regarding criminal intention?

MR. KAYALAM PARAMESVARAN PILLAI : Honourable member is perhaps thinking of the word 'wilfully'; apart from that, there is no other provision about criminal intention, I think.

MR. K. NARAYANAPERUMAL NADAR : How does the Law Member justify provision for criminal action for breach of contract?

MR. KAYALAM PARAMESVARAN PILLAI : On account of the supreme inconvenience caused to the general public.

MR. K. NARAYANAPERUMAL NADAR : May I ask whether such a principle has been accepted in any system of jurisprudence?

MR. KAYALAM PARAMESVARAN PILLAI : I do not know what the member means by 'jurisprudence'. If an Indian Act is jurisprudence, that principle has been accepted there; if an English Act is jurisprudence, it is accepted there also. (*Laughter.*)

MR. E. SUBRAMANYA AIYAR (Nominated) : May I ask whether anti-social acts are not penalised by the State?

MR. KAYALAM PARAMESVARAN PILLAI : Yes.

MR. P. KUNJUKRISHNAN (Quilon cum Kottarakara) : What is the opinion of the Royal Commission on this matter?

MR. KAYALAM PARAMESVARAN PILLAI : They have not suggested the repeal or even any amendment of this provision as a matter of fact, even after their Report, the Indian Legislature has dealt with this Bill and confirmed this provision.

MR. JOSEPH VITHAYATHIL : Have they not stated in their Report that some provision should be made to safeguard the interests of the labourers, to ameliorate their condition?

MR. KAYALAM PARAMESVARAN PILLAI : Not quite like that; they say that some provision should be made to settle dispute between the labourer and the employer. Anyway, they have not said anything specifically against this provision.

Sir, here is a matter of grave inconvenience to the general public. We are not here concerned with the clerks of the Secretariat going on strike without notice. By the way I have no objection to their strikes also being made illegal. But there is this difference. No great general public inconvenience will be caused by the Secretariat clerks going on strike.

MR. E. P. VARGHESE : How is it that the Anchal Department has been brought in?

MR. KAYALAM PARAMESVARAN PILLAI : It is a public utility service. If my friend wants the Anchal Department to be omitted, it is quite open to him to move an amendment for that. I only object at present to my friend's opposition to the general principles contained in the clause.

MR. N. V. JOSEPH : May I know whether in any of the existing enactments there is provision for penalising breach of contract, either expressed or implied in public utility service such as municipalities?

MR. KAYALAM PARAMESVARAN PILLAI : There are the policemen cannot go on strike without notice; there is a similar provision in the Anchal Regulation also, as also in the Municipal Regulation. But the present provision is more comprehensive. There is some provision in the Penal Code also.

[Mr. Kayalam Paramesvaran Pillai.]

Sir, I cannot see what objection there is to give notice of strikes. Mr. Kunju said that strikes must be like lightning, sudden and without notice in order that they may have the desired effect, namely, of attracting the attention of the public and of the Government to the grievances of the strikers. But, Sir, these strikes surely come out of deliberation and are not actuated by momentary impulses. So, notice can be given. And, what is the object of these strikes? It is that the grievances of the strikers should be redressed. If notice is given, in the case of these public utility services, Government will surely receive such notices, at least ultimately; and they surely will look into the matter, and try to settle the disputes if any, between the employer and the labourer and redress the grievances of the latter. If so, there may not be any necessity for the actual strike. The matter will be effectively settled before any occasion arises for strike. There is therefore no objection to notice being given, and notices will greatly help the labourers themselves. Sir, I oppose the amendment.

The Assembly adjourned for lunch at 1 p. m., and reassembled at 2 p. m.

MR. M. K. MAKKA PILLAI (*Kunnattnad cum Parur*): സർ, ഞാൻ ഒരു മുതലാളിയാണ്. ഞാൻ എത്രത്തോളം മുതലാളിയാണോ ആത്ര തോളം ഒരു വലിയ തൊഴിലാളിയുമാണ്. മുതലാളിമാരെയും തൊഴിലാളിമാരെയുംപറ്റി എനിക്കു കറയൊക്കെ അറിയാം. തൊഴിലാളികളുടെ ഇടയിൽ ഇപ്പോൾ വലിയ കടുപ്പംകൂടാതെയാണു കഴിഞ്ഞുകൂടുന്നത്. എന്നാൽ ഈ തൊഴിലാളികളെക്കൂടാതെ വേറെ ഒരു വകക്കാർ ഇപ്പോൾ ഉണ്ടായി വരുന്നുണ്ട്. അവർ തൊഴിലില്ലാത്തവരാണ്. അവരും മുതലാളിമാരും തമ്മിൽ തീരെ യോജിപ്പില്ലാതെയാണു കഴിഞ്ഞു കൂടുന്നത്. മുതലാളിമാരെ എങ്ങിനെയെങ്കിലും വിഷമിപ്പിക്കണമെന്നായിരിക്കും അവർ ഉദ്ദേശിക്കുന്നത്. അതിലേക്കു Trade dispute ബിൽ ഉണ്ടായിരിക്കേണ്ടതു അത്യാവശ്യമാണ്. ഈ ബില്ലിൽ ൧൫-ാം സെക്ഷൻ വളരെ ആവശ്യമായിട്ടാണു കാണുന്നത്. അതുകൊണ്ടു ൧൫-ാം സെക്ഷൻ എടുത്തുകളയണമെന്നുള്ള ഭേദഗതിയെ ഞാൻ എതിർക്കുന്നു.

MR. E. SUBRAMANIA AIYAR: Sir, I am unable to subscribe to the deletion of Clause 15 of the Bill. I do not want to add much to what the Law Member has stated but one or two points I may emphasise in relation to the discussion which we had from some honourable members of this House. It was asked whether a breach of contract can be made penal or whether it will under any circumstances be a crime. As a teacher of law I had often pointed out that an act in breach of contract may be a tort as well as a crime. But nothing here turns

upon the question whether a particular act is a breach of contract or not. The question obviously is—what is the nature of the act? It may be that the relationship between the employer and the employed has been constituted by a contract. Once the relation is certainly constituted, the law will step in and regulate the rights and liabilities flowing out of that relation. By way of analogy I may say that in most countries marriage is a contract. Once marriage has been contracted the relationship of husband and wife is a matter for regulation by the State and certain acts done by the husband in relation to the wife or by the wife in relation to the husband may be considered by the State as requiring restraint in the interest of the society as a whole. In the same way what Section 15 attempts to do is to regulate the contractual relation between the labourer and the employer. The only question for the House to consider is whether it is proper for the State to regulate the relationship between a public utility service and an employee thereunder and whether if certain acts done by the employee in breach of or in violation of the relation will tend to paralise the enterprise as a whole which enterprise is an absolute and vital necessity for the State. Such acts should be restrained.

Again in my view if we read Section 15 and understand the scope of that Section, we will find that the restriction placed upon the freedom of the labourer is of a very tenuous kind. For the purpose of argument I may concede the right of a labourer to refuse to work. I am not at the question of the fundamental right to work. Whether a person has a right to refuse to work after entering into a contract of service, is in my view a moot question. Assuming that such a right exists, has it been restricted? What is the restriction that is now placed by the Section? Let us read the Section. It deals with the right to go on strike. As the honourable Law Member pointed out, let us read the definition of strike. It says that it is a cessation of work by a body of persons employed in any trade or industry acting in combination, or a concerted refusal or a refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment. What is prohibited is not the freedom of the individual to refuse to work. What is prohibited is the freedom of the individual to refuse to work in combination with other people. Does it stop there? No. The Section states—in breach of contract expressed or implied without having given to his employer and to the prescribed authority within one month before so striking, not less than fourteen days' notice in writing. It is not a mere refusal to work for a day. It says—Are you going to commit a breach of contract? You may do it by yourself. The Section, attempts if at all to prevent a breach of contract in combination with other people. No body is going to say that it is lawful to commit a breach of contract. In fact every society expects its component parts to act lawfully. It will be admitted that to commit a breach of contract is to do an unlawful act. If two or more persons combine to perform an unlawful act, I do not see anything wrong in asserting that such a combination is an

[Mr. E. Subramania Aiyar.]

unlawful combination. The Section merely says that such a combination to commit a breach of contract should be restrained to some extent. That is why it says that notice must be given. So it appears to me that the restriction placed by the Section, when you consider the scope of it, is very light and the Section views the activities of the labourers with considerable sympathy.

MR. K. NARAYANAPERUMAL NADAR : May I know from the honourable member, why the Breach of Contract Regulation was repealed?

MR. E. SUBRAMANIA AIYAR : If the honourable member will kindly look into that Regulation he will find that it dealt with the breach of contract by a single individual. As time advanced the State might have thought that an individual may be left to commit a breach of contract. But the question here is not that. We are concerned with the breach of contract by two or more persons. The Law Member has referred to the words—a body of persons used in the definition clause *i. e.*, a number of persons entering into a combination or a conspiracy to commit an unlawful act. A breach of contract is an unlawful act and I do not know of any jurisprudence which says that such an act is lawful. So it appears to me that the Section errs only on the side of leniency. The legitimate activities of the labourer are not at all interfered with. When you refuse to work in combination with other people, let it be one, two, one hundred or one thousand—it may be also in breach of contract of service—you shall not be permitted to paralyse a vital industry or service. The state interposes and says:—Give us notice and if you do so we will try our level best to see that such a catastrophe does not take place. It is a most reasonable provision.

There is absolutely no room for alarm in Section 15. I would invite the attention of the House to another part of Section 15 where it is stated—No criminal court shall take cognisance of any offence under this Section or of the abetment of any such offence save on complaint made by or under authority from our Government or such officer as may be prescribed on that behalf. So, even if such a strike takes place it does not follow that you or I can go to the police station and set the law in motion. The complaint can be instituted only by the Government or such officer as may be prescribed in that behalf. So there is sufficient safeguard to prevent the employer from having recourse to doubtful methods to harass the labourers. I may also point out that under this Section it is only a Magistrate of the First Class that can try the offence. The question therefore for the consideration of the House is whether this restriction on the freedom of an individual to act in combination with others for the purpose of committing a breach of contract, which in law is an unlawful act, is necessary in the interest of the State as a whole. If you who are conversant with the conditions in the State think that this restriction is uncalled for, I have nothing more to say. I however appeal to all the members of the House to consider the matter dispassionately. There is no question or

principle of law involved in this matter. Every where, whether in America or England or Soviet Russia—I am told there is no right to strike in Soviet Russia—it has been found necessary to regulate strikes and lock-outs. It is neither safe nor prudent to recognise a right in a body of persons, particularly, the illiterate labourers which they may be influenced to exercise to the detriment if not the destruction of the community including themselves. Well, that is a course which I do not think we ought to take unless we take leave of our sanity. I do not want to make the present provision more rigorous but I do feel that it should be allowed to stand.

MR. N. V. JOSEPH: Sir, I support the motion, but not for the reason that the present clause in the Bill violates the fundamental rights of citizenship. To my mind, there is no fundamental right on which the State cannot lay its hands upon. For instance, there is no greater fundamental right than the right to live: and the State has the power to take away the life of a human being, if it is necessary. I do not support the motion on the ground that public utility services do not require the safeguards provided in Clause 15; there may be certain public utility services which, under certain circumstances, may require even greater safeguards than those provided in the clause. My position is that, at present, this provision is rather a luxury than a necessity. There are at present laws existing in Travancore penalising breaches of contract in several public utility service departments such as municipalities, Anchal etc., By such laws we can have control over individual breaches.

The provision now in question is against combination of labour. Now, are there organised labour associations in Travancore? Clause 15 makes provision against organisations which we do not have in Travancore now. The provision will only stifle the formation and growth of such organisations in the country. When we have such organisations, say, a few years hence, by all means provide for such safeguards as those contained in Clause 15, or for even more rigorous ones. I do not think that, under the present conditions in Travancore, it is necessary or expedient to have the provision now set forth in Clause 15. On that ground I oppose the provision and support the motion.

MR. K. G. KUNJUKRISHNA PILLAI (*Neyyattinkara cum Trivandrum*): Sir, I beg to oppose the motion of Mr. P. K. Kunju. I am afraid, Sir, that those honourable members who were emphatic on the present motion, have really misunderstood the scope of Clause 15. Sir, the applicability of that provision arises only in a case of grave emergency. If there are labour unions, and if the unions, after deliberate consideration, come to the conclusion that a strike is necessary in the interests of labour, I fail to see how Clause 15 would be in any sense detrimental to them. Sir, organised labour is only part of the community. The interests of the whole community is a prime consideration for the State. If any part of the community thinks itself aggrieved and therefore in the words of one of the honourable members who supported the motion wants to inflict hardship on the general

[Mr. K. G. Kunjukrishna Pillai.]

public at large with a view to divert their attention to their grievances, I for my part would submit that it shall be done only at grave risk and after deliberate consideration. Sir, the provision in Clause 15 does not prohibit altogether strikes without notice; only, those who strike without giving notice will have to stand a trial and conviction. To my mind, those people who feel that their condition is intolerable would not and should not mind a conviction. (*Hear, hear.*) That would be more valuable to them to divert the attention of the public and of the Government than anything else. Therefore, Sir, Clause 15 is essential for the protection of the community at large, and not at all a detriment to the interests of labour, organised or unorganised. After all, a conviction under the clause would mean a fine of Rs. 50 or a few days in the Central Jail. I feel that, in the interests of labour itself, it will be a corrective. The labourers will have time to deliberate and, as I have already submitted, the trial and conviction under the clause in case of strikes without notice will only be more effective in drawing the attention of the authorities concerned to the grievances sought to be redressed by means of the strikes. I have great sympathy for labour. For the protection of the community at large, and for the protection of labour itself, I feel that the provision in Clause 15 is essential. Therefore, I am sorry I am not in a position to support the motion.

MR. M. SIVATANU PILLAI: Sir, I wish to speak a few words in opposition to the motion before the House. I may assure my honourable friends that I am neither a labourer nor an employer. I am just what I am. (*Laughter.*)

PRESIDENT: Do I understand that it means something in connection with the Nagercoil Municipality? (*Laughter.*)

MR. M. SIVATANU PILLAI: I shall make my position more clear, Sir, as I proceed to the subject on hand.

I have listened to the speeches made in support of the motion: I found in all of them heartfelt sympathy for the labourers. I go a step further; I feel more for the poor labourer than for the mere labourer. It may not be out of place if I just repeat here a song a Tamil song, composed by the late Bharathiyar which I like very much and which I sing even in my forgetful moods.

தனி நருவனுக்கு—

உணவு இல்லையேன்,

ஐக்கதினை அழித்திடுவோம்.

To put it, in a way, in English, it means that every man under the sun has got a right to get his food, and should get it even at the risk of decimating the whole humanity. That is the feeling of the poet. That poem should be remembered by everyone; and is enshrined in the heart of every one especially in Tamilnad. Therefore

Sir, I as a Tamilian am also taught to feel great sympathy for the poor labourer. With that preamble, I shall proceed to state my view as to how I look upon the motion now before us.

Sir, the whole position has been misunderstood. The Law Member has made it quite clear as also Mr. E. Subrahmaniam Aiyar that the so called fundamental right to strike is not denied by Clause 15 ; it is there. Only, they have to give 14 days' notice. And, in what cases? Only, in public utility services. Sir, I may concede that 90 per cent. of our population are poor people. Let us take, for instance, the Government Transport Scheme. There may be labourers who will be employed in it. Suppose one fine morning they all go on a strike. What will happen? I cannot come from Nagercoil to Trivandrum, and will stand to lose my very dear batta of Rs. 5 (*Laughter*). The labourers are at liberty to strike. But, why should they be allowed to do it at my expense? As a matter of fact, every day, numerous labourers come to Trivandrum for work under the Drainage Department now. How can they do that if the workers in the transport buses strike work? Labour includes also those poor people who come here every morning, in the buses, for work in the Trivandrum town. 'Public' includes these poor labourers also. What is the meaning in saying that you feel for the labourer, and at the same time injuring one section of labour itself.

Secondly, Sir, it has been argued that the provision in Clause 15 was not practicable since there would be hundreds and thousands of labourers going on strike who could not all be housed in the Central Jail. Sir, Mr. Velayudhan has asked us all to be serious in dealing with this matter. I cannot, I admit, but be light. It is not very difficult to put barbed wire fencing and to electrify it. It is therefore not a difficult matter at all to provide room let alone the Central Jail for hundreds of labourers. I ask sir in all seriousness—is it an argument? Is it not the duty of Government to provide for contingencies accompanied by violation of law?

PRESIDENT : Honourable member is reminded of the fact that we are now dealing with Clause 15 of the Trade Disputes Bill. (*Laughter*).

MR. M. SIVATANU PILLAI : I am only pointing out that the argument of inpracticability is not sound. I have always understood, Sir, that the best way for effective opposition is to dismantle your opponents' arguments one after another. (*Laughter*). At any rate, that is one way of arguing a case.

Further, Sir, it has been pointed out that this provision is identical with that of the provision in the British Indian Act, and even less rigorous than that of the English Act. The Law Member has also pointed out how, if strikes without notice were sought to be restricted, lock-outs without notice were also restricted equally. Therefore, if the provision is correctly understood, there would be no room for opposing the provision contained in Clause 15. I think it is absolutely necessary. Now another argument is that strike to be effective, should

[Mr. M. Sivatanu Pillai.]

be sudden. I say no. Strike to be effective, should be based on truth, justice and reason. Otherwise, it will recoil on the poor labourers. I wish labour should depend upon only the inherent justice of its cause and not on putting others at a disadvantage. I oppose the motion.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Mavelikara cum Kunnathur*): Sir, there appears to be some misunderstanding with regard to the scope of Clause 15, and that has given room for some sort of analogy based on public service. Sir, public service is not public utility service; they do not mean the same. They should not be confounded. If that distinction has been understood, there would have been no room for the present motion.

It has been suggested that the provision contained in Clause 15 affects the fundamental right of the labourer to cease to work. Does the clause really prevent the labourer from exercising that fundamental right of his? No, it does not. If any labourer wants to abstain from work on any particular day, it is quite open to him to do so; the clause allows it. The clause relates only to strikes; and there, certainly, some restriction is absolutely necessary. It must be remembered, Sir, that, for the first time in Travancore, we are giving statutory recognition to strikes; for the first time, we say that it shall be lawful for workers to strike work; for the first time we are giving statutory recognition to that fundamental right of the labourer. Now, the question is whether, in so doing, we should not impose the necessary restriction upon the exercise of such right.

Sir, my humble submission is that every legislative enactment, social or otherwise, whether it relates to labour or to other interests, while it affords protection to one set of people, it always infringes upon some right or other of others. I have only to refer my hon'ble friends to the various enactments that we ourselves have enacted, to illustrate that. Now, here, the question is whether, in the larger interests of the general public, it is not necessary, to impose some restriction on the exercise of the right to which we are now giving statutory recognition for the first time, whether in granting a right to the labourer we should not also see that the public at large are not put to any great loss or inconvenience on account of the exercise of such right by the labourer. The restriction provided in Clause 15 is absolutely necessary in the interests of the general public.

And then, what are the cases in which the restrictions apply? Only public utility services. The Law Member has referred to the scavengers' strike; the Water Works Department, and the Anchal, Postal, Telephone and Telegraph services have also been referred to. I would just refer to the Power House, not the comparatively smaller ones that, we now have in Trivandrum, or Quilon or Nagercoil, but the big Power House of the Pallivasal Hydro-Electric Scheme. Suppose, without giving any warning or notice, the wiremen, the line-men, the engine-men, the workers strike work. The whole country, rich and poor alike, labourer and employer alike, will be depending solely on the Pallivasal

Scheme for lighting, and for small cottage industries. What will be the position? What will be the seriousness of the inconvenience caused to the 51 lakhs of people of the country? I submit that is far more important than the grievances, if any, of a set of labourers. The benefit accruing to the general public as a result of the provision in Clause 15 far outweighs the slight disadvantage, if any, to one set of labourers fighting for some right of theirs? One has to exercise his rights in such a manner as not to inconvenience others, especially the public at large. Individual grievances should go to the background; individuals must make some sacrifices for the sake of the public whose interests should always be in the foreground.

It has been argued, Sir, that strikes, in order to be effective, should be spontaneous. After all, strikes are intended to achieve some object, to get some grievances redressed. Here is a statute which provides for the establishment of boards or other authority for enquiring into the grievances of the labourer and to redress them. Only, the statute says that the agitation for rights must be constitutional. Strikes have been legalised here because they are considered necessary on some occasions for the redress of grievances. If there is a chance of the grievances being redressed by the mere notice of strikes, why not do that? Where is the harm in doing that, especially since there is no risk of the general public being put to serious inconvenience?

Another hon'ble member said that organised labour, so far as Travancore was concerned, was yet unknown, and therefore the provision was not necessary. Sir, already there is provision in the Trade Unions Bill recognising the right of the labourer to organise unions; and these unions are already coming into existence, and are developing. It is not therefore right to say that the provision in Clause 15 is not necessary. Already unions are being organised, and more of them will come into being in the near future.

MR. P. K. KUNJU: Trade Union Bill അനുസരിച്ച് രജിസ്റ്റർ ചെയ്യപ്പെട്ട Association ഏതെങ്കിലും ഇപ്പോൾ ഉണ്ടോ?

MR. PUTHUPALLI S. KRISHNA PILLAI: If there is such an association, it is quite open to them to get registered hereafter and to commence functioning as a lawful association, an association for whose proper functioning we are making this enactment now.

Sir, minimum inconvenience should be bargained for when we give statutory recognition to a right to a section of the public. That is the position that has been accepted in the present clause. I do not think a provision made for the protection and convenience of the entire public can be objected to by those who advocate the cause of the labourer who forms only a section of the public.

MR. M. L. JANARDHAN PILLAI (Nominated): I oppose the amendment moved by Mr. P. K. Kunju. The clause clearly lays down that it applies only to public utility services. I could have understood all the objections that have been raised against Clause 15 if it had related

[Mr. M. L. Janardhan Pillai.]

to factories or industries run by private individuals or bodies. Any honest citizen, any responsible citizen, will only be helping the course of administration by providing that public utility services should not be brought to a stand still all on a sudden by strikes or lock-outs.

Sir, the fourteen days' notice that has been provided for in Clause 15 is intended to give sufficient time for the parties to arrive at a happy understanding within that period so that public inconveniences can be avoided. That is the ideal state of affairs which everybody should strive for. When we provide against strikes without notice, the real object is that public utility services should not be paralysed. This is a Bill which has been introduced by Government themselves to protect and safeguard the interests of labour and, as I have already stated, it is to give time to the parties concerned to come to some happy understanding that the provision for notice has been made in clause 15. I fail to understand why there should be any anxiety if labour is going to be sufficiently responsive to their sense of responsibility and realise what their difficulties are. They certainly will find time to place their grievances before the responsible authorities and get their remedy. That does not seem to be the idea of this amendment. But if on the other hand it is contended that labour is so very responsible that it knows its business, that it must be given freedom to start strikes; then there would be no difficulty at all because after all it knows what its rights and responsibilities are. If I have the testimony of Mr. Giri, the labour leader, who recently spoke on the matter, he distinctly stated that it has been the common practice to start a strike and then find out reasons for starting the strike. Even when all opportunities are given by the present Madras Government to labour organisations to bring their grievances before the Government, they are unwilling to place their grievances before it. Even when such opportunities are given they are making all attempts to find out some means by which strikes could be brought into effect suddenly and then find out reasons for them. While dealing with ill-organised labour population as it was contended on the other side of the House, when labour is just slowly building its edifice, why make it easy for them to act in such an irresponsible manner even in regard to public utility services? This practice may perhaps be resorted to in the case of factories or industries which are run by private individuals. But do you want to seriously affect the public utility services also, where you know it is managed entirely or partly by Government or under proper control of Government? As honourable Mr. E. Subramonia Iyer rightly pointed out, no prosecution can lie against these people unless Government themselves grant the proper sanction. The chances to punish them are fettered by so many safeguards. There is no likelihood that that power will be misused by the Government. Why not have that confidence in the Government? When you come to private capitalists you can do what you like with them. But in the case of municipalities and other public service utilities do you want a sudden and unfortunate state of affairs to

crop up so as to make it impossible to make such services run properly? Therefore I appeal to the honourable members of this House to consider whether it is not necessary that public utility services do require this clause for their protection and proper functioning.

The motion was put to vote and lost.

MR. P. K. KUNJU: I demand a poll.

A poll was taken and the House divided as follows:—

AYES—28.

1 Mr. P. C. Adichan	15 Mr. P. Kunjukrishnan
2 Srimati K. Devaki	16 „ M. G. Mathew
Antharjanam	17 „ P. Nanoo
3 Mr. Kannara Gopala Panicker	18 „ K. Narayanaperumal
4 „ C. Jepamony Nadar	Nadar
5 „ N. John Joseph	19 „ S. Narayana Pillai
6 „ N. V. Joseph	20 „ K. R. Narayanan
7 „ Joseph Vithayathil	21 „ E. John Philipose
8 „ K. Kesavan	22 Srimati C. O. Ponnamma
9 „ M. Kesava Panicker	23 Mr. Codiveetil C. Ramankunju
10 „ K. P. Kochukora Tharakan	24 „ P. J. Sebastian
11 „ Kaviyoor K. K. Kochukunju	25 „ K. T. Thomas
12 „ P. K. Kumaran	26 „ E. P. Varghese
13 „ Thariathu Kunjithomman	27 „ V. K. Velayudhan
14 „ Sahib Bahadur P. K. Kunju	28 „ N. Velu Achary

NOES—29.

1 Sahib Bahadur V. Chandamiah	16 Mr. Kainikara M. Padmanabha
2 Mr. C. V. Chandrasekharan	Pillai
3 „ S. Chattanatha Karayalar	17 „ Kayalam Parameswaran
4 „ D. Francis	Pillai
5 „ K. George	18 „ K. Parameswara Panicker
6 Dr. M. K. Gopala Pillai	19 „ J. E. A. Pereira
7 Mr. M. L. Janardana Pillai	20 „ M. Ramiah Pillai
8 „ K. C. Karunakaran	21 Rao Bahadur A. Rengaswami
9 „ S. Krishna Aiyar	Aiyar
10 „ Puthupalli S. Krishna	22 Mr. James Simpson
Pillai	23 „ M. Sivatanu Pillai
11 „ C. Kumara Das	24 „ E. Subramania Aiyar
12 Rao Bahadur Rajyasevaniratha	25 „ A. Thanu Pillai
Dr. N. Kunjan Pillai	26 „ J. W. Tolson
13 Mr. K. G. Kunjukrishna Pillai	27 „ G. B. E. Truscott
14 Sahib Bahadur M. K. Mackar	28 „ Puliyoer T. P. Velayudhan
Pillai	Pillai
15 Mr. N. Narayana Kurup	29 „ P. Vivekanandam

NEUTRALS—6.

1 Mr. Kottalil P. Abraham	4 Mr. R. Narayanan Namboori
2 „ T. T. Kesava Sastri	5 „ G. P. Nilakanta Pillai
3 „ P. V. Mathai Chemparathy	6 „ T. M. Varghese

The motion was declared lost.

Clause 15.

MR. KANNARA GOPALA PANICKER : I move that in Clause 15, sub clause (1) line 2, the words "expressed or implied" be omitted and that in line 3, the words "and to the prescribed authority" be deleted.

ഈ വാക്കുകൾ അവശ്യമില്ല. ഇവയില്ലാതെ തന്നെ ഈ വകുപ്പിന്റെ ആശയം വ്യക്തമാകുന്നുണ്ട്. ഈ രണ്ടു വാക്കുകൾ കൂടാതെ തന്നെ ആ വാചകത്തിന് അർത്ഥവും ഉപയോഗവും ഉണ്ടാകുന്നുണ്ട്. ഇതിടാതെ തന്നെ Express ആയിട്ടും Implied ആയിട്ടും ആകാം. അതുകൊണ്ട് ഇതു എടുത്തു കളയണം.

MR. KAYALAM PARAMESWARAN PILLAI : Mr. Gopala Panicker's objection to this clause or rather to the words "express or implied" is that it is unnecessary and that it is implied in the term "contract". If that is so, I ask the reason why he should take so much trouble to get it omitted?

But the second part of the amendment, that is the proposal for the omission of the words "and to the prescribed authority" is a very serious matter. During the debate on the previous amendment I said that if notice is given to the authority, and the authority is very likely to be Government, such authority will try to redress the grievances as much as possible. Take for instance the case of an electric undertaking, which could be carried only under a Government license. If notice is given not only to the employer but also to the prescribed authority, such authority or the Government may intervene to rectify matters.

This provision for notice to the prescribed authority was intentionally put in by the Select Committee with a view to enable the Government to intervene and try to settle differences. Even though the employer may be a purely private authority, notice is required to be given to the prescribed authority so that it may enquire into the matter and redress the grievances. Therefore notice to the prescribed authority is absolutely necessary.

MR. JOSEPH VITHAYATHIL : I support this amendment, particularly the latter portion. Neither in the English Act nor in the British Indian Act is there such a provision with regard to giving of notice. In the Bill now before the Indian Legislative Assembly they have included a provision with regard to the giving of notice by the employer. When he receives notice about an impending strike he must inform the Government about it. If he intends to effect a lock-out then also he must give notice to the Government. But with regard to the obligation on the part of the workmen to give notice either to the Government or to the prescribed authority of the Government there is absolutely no provision in that Bill or in any other enactment. It is not found even in the Bill that is now pending in the Imperial Assembly. With regard to the provision for giving notice to the prescribed authority, the learned Law Member said that the object is to enable the Government to take the necessary steps to prevent a strike. But what is provided for in the clause is to punish a man for not giving notice to the Sirkar. One can understand the employer being made liable for not giving such notice. As was rightly said by the Law Member the public utility

services are either Government services or quasi-Government services. The employers are practically the agents of the Government. So it is their duty to inform the proper authorities with regard to an impending strike. So far as the employee is concerned it is purely a matter of private contract between him and his employer. Is a man to be punished for not giving notice to a third party about an act of his? He has not entered into any contract with that party. For breaking a contract with his employer the employee is asked to give notice to a third party. On principle it is highly objectionable. Whatever may be the result, to punish a man for failure to give notice to a third party, is certainly objectionable. As I said before the new provision that was inserted in the Bill that is now pending before the Imperial Assembly is for safeguarding the interests of the employee. Here a similar restriction is sought to be imposed upon the employee also. Even if he gives notice to the employer if he does not give notice to the prescribed authority also he is penalised. This provision is absolutely unnecessary and it ought to be deleted.

MR. KAYALAM PARAMESWARAN PILLAI: Sir, I think there is some misconception. The punishment is not for the failure to give notice. The punishment is for resorting to a strike without giving notice. The object of giving notice of a strike to the Government authorities is that Government may enquire into the matter and find means for redressing the grievances of the labourers. What we want above everything else is to find suitable ways towards the redress of the grievances of the labourers. That is expected to be done by the Government. But how is it possible for the Government to interfere if they are not made known of the strike? The more interested party, in the dispute is *ex hypothesi* the labour. It is therefore necessary in their interests to inform the authorities concerned of their intention to strike. As Mr. Vithayathil said, this provision is unlike what is found in British India. That is true. But I would say that the House should be thankful to their Select Committee for having put in this provision, particularly, in the interests of labour.

The motion was put to vote and lost.

MR. KANNARA GOPALA PANICKER:—Sir, I demand a poll.

A poll was taken and the House divided as follows: |

AYES—24.

1 Mr. C. Japamony Nadar	13 Mr. P. Nanoo
2 „ N. V. Joseph	14 „ K. Narayanaperumal Nadar
3 „ Joseph Vithayathil	15 „ S. Narayana Pillai
4 „ K. Kesavan	16 „ K. R. Narayanan
5 „ M. Kesava Panickar	17 „ G. P. Nilakanta Pillai
6 „ K. P. Kochukora Tharakan	18 „ E. John Philipose
7 „ Kaviyoor K. K. Kochukunju	19 „ P. J. Sebastian
8 „ P. K. Kumaran	20 „ K. T. Thomas
9 „ Thariathu Kunjithommen	21 „ E. P. Varghese
10 Sahib Bahadur P. K. Kunju	22 „ V. K. Velayudhan
11 Mr. P. Kunjukrishnan	23 „ N. Velu Achary
12 „ M. G. Mathew	24 Srimati C. O. Ponnammma

NOES—31.

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| 1 Mr. P. C. Adichan | 17 Sahib Bahadur M. K. Mackar |
| 2 Sahib Bahadur V. Chandamiah | Pillai |
| 3 Mr. S. Chattanatha Karayalar | 18 Mr. C. V. Chandrasekharan |
| 4 Srimati K. Devaki Anthar-janam | 19 „ N. Narayana Kurup |
| | 20 „ Kayalam Paramesvaran |
| | Pillai |
| 5 Mr. D. Francis | 21 „ J. E. A. Pereira |
| 6 „ K. George | 22 „ M. Ramiah Pillai |
| 7 „ M. L. Janardhana Pillai | 23 Rao Bahadur A. Rengaswami Aiyar |
| 8 „ N. John Joseph | 24 Mr. E. Subramania Aiyar |
| 9 „ K. C. Karunakaran | 25 „ A. Thanu Pillai |
| 10 „ T. T. Kesavan Sastri | 26 „ J. W. Tolson |
| 11 „ S. Krishna Aiyar | 27 „ G. B. E. Truscott |
| 12 „ Puthupally S. Krishna Pillai | 28 „ Puliyoor T. P. Velayudhan |
| | Pillai |
| 13 „ C. Kumara Das | 29 „ P. Vivekanandam |
| 14 Rao Bahadur Rajyasevaniratha Dr. N. Kunjan Pillai | 30 „ James Simpson |
| 15 Mr. K. G. Kunjukrishna Pillai | 31 Dr. M. K. Gopala Pillai |
| 16 „ K. Parameswara Panicker | |

NEUTRALS—5.

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| 1 Mr. Kottalil P. Abraham | 4 Mr. G. P. Nilakanta Pillai |
| 2 „ T. C. Kesava Pillai | 5 „ T. M. Varughese |
| 3 „ P. V. Mathai Chem-parathi | |

The motion was declared lost.

MR. S. KRISHNA AIYAR (*Nominated*): Sir, now that offence has been recognised by the legislation and we come to the question of sentence. Here, we find a disparity. The fine imposed is higher in the case of the employer for a similar offence. Our friends on the other side want to level up the position of the labourer to that of the employer. Certainly labour should recognise this disparity or the inequality and those who champion the cause of labour should be the first to see the disappearance of any disparity in the legal status of the employers and the employees. After all, the employers pay in money and the employees pay in service. It is not a question of capacity but it is a question of principle. I therefore move that in Clause 15, sub-clause (2) line 6, the words "fifty rupees" may be substituted for "one thousand rupees."

MR. J. E. A. PEREIRA: Sir, I also support the motion. There has been much talk of holding the scales even in connection with strikes and lockouts. I cannot understand why a double standard should be introduced in the matter of penalties for the similar offence committed by the labourer and the employer. With these few words, I support the amendment.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, I oppose the amendment. There is a very real and substantial reason why this difference is made. In the case of employees they are illiterate and they do not enjoy all those advantages which the employers enjoy and therefore, Sir, if the same offence is committed by the employer who ought to know better, his punishment must necessarily be greater.

MR. A. THANU PILLAI: Is the fine imposed as punishment?

MR. K. G. KUNJUKRISHNA PILLAI: Any fine is a punishment so long as it is awarded by a criminal court. Therefore I say, Sir, that the employer ought to be punished with a bigger penalty.

MR. S. KRISHNA AIYAR: Is it under the presumption that every man should be punished whether he may be ignorant or whether he may be culpable?

MR. K. G. KUNJUKRISHNA PILLAI: There are so many presumptions in law which are in fact far from truth. With great respect to my learned friend who knows laws better than myself I may say that presumptions in law very often create difficulties for innocent people. With these words I emphatically oppose this amendment.

MR. JOSEPH VITHAYATHIL: Sir, I also oppose this amendment. A lockout is a much more serious thing than a strike by a few workers. In the case of a strike perhaps only a few individuals may take part. But by a lockout thousands of people are sent out of work and they suffer acute hardship. The punishment for causing this should not be a paltry fine amounting to Rs. 50. Again in the case of a strike each of the persons engaged in it can be punished. According to the definition of the word strike even two persons can effect a strike, and only those two persons may be affected by it. Then each of them can be punished with a fine of Rs. 50. Whereas according to the amendment an employer who sends out say ten thousand people without work and wages by a lock-out should be meted out only with a fine of Rs. 50, which is nothing to him. The difference is certainly based on just grounds. For these reasons, I oppose the amendment.

MR. E. SUBRAMANIA AIYAR: Sir, I oppose this amendment. Punishment should be individualised. That is the accepted view in modern times. So I consider that Rs. 1,000 by way of fine is only a moderate figure so far as the employers are concerned, because we expect of them much more in the matter of abiding by law than in the case of the ordinary labourers who are subject to several influences.

MR. V. K. VELAYUDHAN: Sir, I oppose the motion. I can appreciate the view point of Mr. S. Krishna Aiyar that equal treatment should be meted out to all irrespective of the fact whether they are rich or poor. My only apprehension is that this wholesome sentiment and principle are never translated into action. With these observations I oppose the motion.

MR. PUTHUPALLY S. KRISHNA PILLAI: It is very unfortunate that I have to disagree on this point with the learned mover of this amendment. The only point that was urged in support of this motion was this: There are only two parties in the transaction. One party is

[Mr. Puthupally S. Krishna Pillai.]

convicted for a particular violation of law and the same punishment only should be meted out to the other party who commits similar default. I may submit that there is certainly justification for the difference in the matter of punishment for certain offences. You cannot ignore that. For instance let us take a particular offence say adultery. In the case of adultery the offence is the same on the part of both the parties, but only one party is punished and there must be sufficient reason and justification for the difference. Similar justification is also found in this case. The employer is ordinarily a man who is more educated, who is in more affluent circumstances than the innocent labourer. If the innocent, illiterate and unwary labourer omits to comply with a technical statutory provision, the punishment meted out to him must be commensurate with the gravity of the remissness he is guilty of. Take the case of an employer, a person like my friend Mr. S. Krishna Aiyar, a big employer of labour. The section says that a few days' notice shall be given before a lock-out is effected. If he is not able to conform strictly to the provision of the section I don't understand why the law should not regard his offence with greater rigour. My submission is that there is difference in the various classes and grades of people and similar difference in the various grades of offence committed. Therefore, I submit that the law must certainly declare that any breach of this rule by the employer will be treated with greater rigour. That is the justification for this difference. It must be more so in the case of Government or quasi-Government employer. With these words I oppose the amendment.

MR. KAYALAM PARAMESWARAN PILLAI: Sir, I have to oppose this motion. I must say that the logic of Mr. Krishna Aiyar's proposal is unquestionable. Nonetheless he will consider one aspect of the matter and then I think he may himself withdraw his amendment. The fine must be felt as a sacrifice by those on whom it is imposed. In the case of labour Rs. 50 may be a sacrifice, but in the case of the employer Rs. 50 will not be felt as a sacrifice; it must be thousand for that purpose. That is the reason why you find the difference in the punishment. I fully trust that Mr. Krishna Aiyar will not press his motion in this view of the question.

I take it that his object was only to impress on the House that neither the author of the Bill nor the legislature is partial to the employer. If at all, the legislature is trying to weight the scales against the employer and not against the labourer. I hope therefore that Mr. Krishna Aiyar will withdraw his motion.

MR. S. KRISHNA AIYAR: Sir, my learned friend Mr. Krishna Pillai was telling us that because the employer is educated and cultured he is expected to know the results of his actions and therefore he must be penalised to a higher degree. It is therefore a penalty on education and culture. That argument may perhaps appeal to the House.

The argument of the learned Law Member was that in the case of public utility concerns, a fine of Rs. 1,000 might be felt by the authority but not a fine of Rs. 50. Let us take for example the Trivandrum Municipality, a public utility concern. Suppose it is fined

Rs. 1,000. It may not feel it at all. Supposing it is a railway company. Will it feel a fine of Rs. 1,000? It is a case of disparity or inequality, and as the Law Member says, well thought out inequality.

The amendment was then put to vote and lost.

MR. A. THANU PILLAI: I demand a poll.

MR. PUTHUPALLI S. KRISHNA PILLAI: I rise to a point of order. On a former occasion it has been ruled that it is the privilege of the party that is defeated to claim a poll. In this case Mr. Thanu Pillai does not belong to the defeated party. So he is not entitled to claim that right.

PRESIDENT: It is generally a convention that the victorious party does not demand a poll. It is only a convention and not a rule. I allow the poll.

A poll was taken with the following results:—

AYES 3

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| 1. Mr. J. E. A. Pereira | 3. Mr. M. L. Janardana Pillai |
| 2. „ S. Krishna Aiyar | |

NOES—56.

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| 1. Mr. Kottalil P. Abraham | 29. Mr. P. V. Mathai Chem- |
| 2. Sahib Bahadur V. Chandamiah | parathy |
| 3. Mr. S. Chattanatha Karayalar | 30. „ M. G. Mathew |
| 4. Srimathi K. Devaki Anthar- | 31. „ C. V. Chandrasekharan |
| janam | 32. „ P. Nanoo |
| 5. Mr. K. M. Eapen | 33. „ K. Narayanaperumal |
| 6. „ E. E. Pandarathil | Nadar |
| 7. „ D. Francis | 34. „ K. R. Narayanan |
| 8. „ K. George | 35. „ R. Narayanan Namboori |
| 9. „ Kannara Gopala Panicker | 36. „ S. Nilakanta Pillai |
| 10. „ C. Jepamony Nadar | 37. „ Kainikkara M. Padmanabha |
| 11. „ N. V. Joseph | Pillai |
| 12. „ Joseph Vithayathil | 38. „ Kayalam Paramesvaran |
| 13. „ K. Kesavan | Pillai |
| 14. „ M. Kesava Panicker | 39. „ E. John Philipose |
| 15. „ T. C. Kesava Pillai | 40. „ James Simpson |
| 16. „ T. T. Kesavan Sastri | 41. „ Codiveetil C. Ramankunju |
| 17. „ K. P. Kochukora Thara- | 42. „ M. Ramiah Pillai |
| kan | 43. Rao Bahadur A. Rengaswami |
| 18. „ Kaviyoor K. C. Kochu- | Aiyar |
| kunju | 44. Mr. P. J. Sebastian |
| 19. „ Puthupalli S. Krishna | 45. „ P. Sivarama Pillai |
| Pillai | 46. „ M. Sivatanu Pillai |
| 20. „ C. Kumara Das | 47. „ E. Subramonia Aiyar |
| 21. „ P. K. Kumaran | 48. „ A. Thanu Pillai |
| 22. Rao Bahadur Rejyasevanirata | 49. „ K. T. Thomas |
| Dr. N. Kunjan Pillai | 50. „ G. B. E. Truscott |
| 23. Mr. Thariathu Kunjithommen | 51. „ E. P. Varughese |
| 24. Sahib Bahadur P. K. Kunju | 52. „ T. M. Varghese |
| 25. Mr. P. Kunjukrishnan | 53. „ V. K. Velayudhan |
| 26. „ K. G. Kunjukrishna Pillai | 54. „ Puliyoer T. P. Velayudhan |
| 27. „ K. Parameswara Panicker | Pillai |
| 28. Sahib Bahadur M. K. | 55. „ P. Vivekanandam |
| Mackar Pillai | 56. Srimati C. O. Ponnammamma |

NEUTRALS—3.

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| 1. Mr. G. P. Nilakanta Pillai | 3. Mr. S. Narayana Pillai |
| 2. „ K. C. Karunakaran | |

The amendment was declared lost.

PRESIDENT : In regard to this matter, as the question has been raised, I may as well give my ruling. A ruling was laid down by the Deputy President on a former occasion that when a particular section is in a hopeless minority, the demand for a poll by that section will be a breach of privilege. I am afraid I am not entirely at one with that ruling. But I am at one with the ruling which was given by the President on another occasion, *viz.*, that it would be within the discretion of the Chair, when a poll is demanded not for purposes of accurate determination of the strength of the relative parties but only for demonstrational purposes, not to grant the poll because it might not be in consonance with the traditions of the House. But on this occasion I have allowed the poll.

The question that Clause 15 do stand part of the Bill was put and carried.

Clause 16.

MR. JOSEPH VITHAYATHIL : Sir, I move that Clause 16 be deleted. This clause penalises strikes under certain circumstances. It is recognised that strike is an inherent right of the workman. It is sought to be made illegal if it is done with some object. On principle this is objectionable. When a thing by itself is lawful, there is no logic in making it illegal if it is done with a particular object. In the first place this clause will have very serious consequences. The common saying is that not even the devil knows the mind of man. When the right to strike is recognised by law, it is certainly not right to make it illegal when it is done with a particular object. That is one of the grounds on which I oppose the retention of this clause.

So far as the language of the clause goes, in sub-clause (1) (a), it says that the strike shall be illegal if it has "any object other than the furtherance of a trade dispute." It is sought to be made illegal if it has any other object. The language is very ambiguous and is very mischievous especially under modern conditions. A strike which may apparently be one not in furtherance of a trade dispute may have indirectly the effect of furthering a trade dispute. I take for example one instance. Suppose labourers desire to have a few representatives of theirs in this Assembly for the purpose of bettering their economic condition. For that purpose they may resort to a strike which is recognised by law. But it will be illegal if it does not appear to be in furtherance of a trade dispute though ultimately it will have the effect of improving their economic condition. My submission is that such a strike should not be penalised. The term "furtherance of a trade dispute" is a very vague term and the whole thing will have to be left to the discretion of a magistrate. Such a piece of legislation will certainly work havoc on the labourers.

Then another qualification is that the "trade dispute must be within the trade or industry in which the strikers or employers locking-out are engaged." For the present I shall leave out lock-outs and consider only strikes. This clause penalises what may be called a sympathetic strike. Although a trade dispute may not directly relate to the strikers themselves it may ultimately or indirectly have an effect upon their particular trade or industry also. Take for example a strike in the transport service. The workmen in the railway service may declare a sympathetic strike for assisting the former service. The successful termination of that strike may have some effect on the settlement of the dispute in the other trade also although the two are different services. According to modern conditions we cannot divide labour into water-tight compartments. The different departments of labour may have certain common objects and in furtherance of those common objects these different departments will be interested in the settlement of the dispute in one particular industry, since the settlement of that dispute might affect the other industries also. Suppose the labourers in a particular trade without going on strike are assisting the strikers in another trade by other means. Suppose the labourers in the transport service instead of going on strike help the strikers in the Railway Service by means of money, guidance and men. In that case they are not punished. It is only when they go on strike as a means of assisting their brother workmen in the other industry that the strike is sought to be made illegal. So, on principle the provision is against reason. Of course, it may be said that a strike which may have as its object something other than a trade dispute is not in itself illegal. Some other conditions also will have to be satisfied. That is provided for in sub-clause (b). That is - it must be designed or calculated to inflict severe, general and prolonged hardship upon the community and thereby to compel the Government to take or abstain from taking any particular course of action. Now, that also is very vague. "Severe" I do not know whether the Law Member himself can define that. It is difficult to say whether a particular hardship is severe or not severe. What is the standard? The whole thing is to be left entirely to the discretion of the magistrate. "General" What does it mean? If two people suffer, will it be general? Should there be ten people to suffer? Or, should the strike cause hardship to one hundred or one thousand people? In enacting a penal clause like this, the term must certainly be clear and capable of definition. It is not clear whether all the people should be affected, or whether a particular percentage of the people should be affected or whether a particular class of people should be affected. Boys may be affected but elderly people may not be affected. Women may be affected but men may not be affected. The term is so very general and vague that it makes very bad legislation to say that when the hardship becomes general, it will make the strike illegal. The clause again uses the word prolonged. There also it is so very indefinite and so very vague. When can it be said to be prolonged? Should it last for one day or should it be for two days or three days or four days? My submission is that it is very very vague and nobody knows where he is. A man who instigates a strike of this nature may

[Mr. Joseph Vithayathil.]

not know whether he is committing an offence or not. Then, the word community. There also the term is indefinite. Should the hardship be upon the general public or a particular portion of the public? That also is not capable of any clear definition. Then again the clause, "Compel Our Government to take or abstain from taking any particular course of action" The clause implies that the Government can be compelled by an unlawful act. It amounts to that. Why should it be taken that the Government will be compelled by an act which is not lawful? Is the Government so very feeble? To compel Our Government to take or abstain from taking a particular course of action! The course of action may be of any kind. It may be to refer the matter to a board of enquiry or to a Court, a very lawful act. A strike may compel the Government or induce the Government to take to that course. Even then the act is sought to be made illegal. So, if the act is regarded as one that is likely to compel the Government to do any particular act however proper, according to the strict interpretation of the section it will be an offence. To compel the Government to take or abstain from taking any particular course of action! It may relate to any matter. It may relate to trade disputes. It may relate to a political matter. The term is so very general that it is capable of any interpretation. So, my submission is that it is absolutely vague. It is not supportable on principle and it will have very serious consequences since nobody is sure of his position. Then, the position of the labourer or the worker is made worse by the introduction of sub-clause (3) (a). That is

'a trade dispute shall not be deemed to be within a trade or industry unless it is a dispute between employers and workmen, or between workmen and workmen in that trade or industry, which is connected with the employment or non-employment or the terms of the employment or with the conditions of labour of persons in that trade or industry'

So, the trade dispute must relate to that particular trade or industry which is connected with the employment or non-employment of particular persons. Even though the question may be of a very general nature, if it is not connected with an industry in which the employers are not concerned, then also it comes under sub-clause (3) (a). So my submission is that it is seriously prejudicial to the interests of labour. It may be said that there is a corresponding obligation on the employers also with regard to lock-out which is penalised. From a practical point of view I do not think that there is any necessity for a lock-out in this State. So far as the labourers or the workmen are concerned a strike is the only means at their disposal for getting their grievances redressed. So far as the employers are concerned, practically they have no grievance of theirs to be redressed and there is no necessity for them to resort to a lock-out. So, from a practical point of view the persons who are affected by this clause are the labourers. Such a clause was enacted in England as the result of the so-called general strike. We cannot even think of such a thing in Travancore according to the conditions of labour in Travancore. In England labour is a tremendous force. It has got a strong hand in the Government there. It can see

that things necessary to safeguard the interests of labour are done by the Government, and no Government can ignore the power of labour in England. It can disorganise the whole industry. If in the transport or the coal industry of England a general strike is effected the whole life in a city like London comes to a standstill on account of the co-ordination of the labour unions there. It is possible there to inflict severe injury on the public by means of a general strike. But so far as labour conditions in Travancore are concerned, labour here is highly disorganised and has absolutely no power. What we should do now is to see that labour is properly organised and that it stands on its own legs. A discontented labour is a danger to the State. A disorganised labour is also a danger to the State. That is what the Whitley Commission says. We should not do anything that will in any way prejudicially affect the trade union movement in the state. It is to the interest of the industrial peace of the country that everything should be done to see that trade unionism is developed on proper lines. But the effect of this legislation will be to stifle the growth of trade unionism in Travancore. By means of this we cannot anticipate that there will be no trouble from labour if we altogether ignore their just demands and pass legislation to prevent their growth. That would only promote the growth of secret societies. When there is a real grievance, it will have its own outburst some way or other. We cannot prevent that. The best thing to do is to recognise the fact, to see that labour is protected, that all that is necessary to ameliorate the condition of labour is done. Without doing that, if we pass repressive laws, it will only embitter feelings and create a difficult situation in the State. Although the object of this clause may be to prevent the growth of communist tendencies among labourites, the result will be an altogether different one. So, what we should do is to see that labour is protected, that all that is possible is done to help the proper development of trade union movement. For all these purposes I am of opinion that this clause will be a real hindrance. Therefore I move that Clause 16 be deleted.

MR. M. G. MATTHEW (*Karunagapally cum Kartikapalli*): Sir, I beg to support the amendment before the House. In doing so, I would like to say that the section contains four provisions, the first part saying what all strikes and lock-outs are illegal under the Act. The second part says that it will be illegal for any person to help such people striking or locking out by giving money or some other sort of help. The third part says what strikes will be illegal under the section. The fourth part says what are strikes which will be compelling Government to take or abstain from taking a particular course of action. This section containing these four different parts is sought to be deleted by Mr. Joseph. In fact, if we find that the first part is not one which is acceptable, then the whole section has to go. For that we will have to see whether such strikes and lock-outs would be calculated for the benefit of the people who strike or lock-out.

(At this stage the President left the House and the Deputy President took the Chair.)

[Mr. M. G. Matthew.]

It will be quite clear to all those who are familiar with the history and constitution of trade unions in the west that labour is well-organised there. They have got their labour unions and a central organisation and they have a confederacy which controls the different trade unions. As a result of such organisations we hear very often of sympathetic strikes occurring in the west. For instance, people in the coal industry may help the transport strikers by a sympathetic strike. Similarly people in the cottage industries may be helped by others. If this clause is allowed to stand, it will deprive the labourers of the privilege of forming into unions, and make those unions helpless and weak even if formed. It is absolutely necessary therefore that this section should be deleted. With these words I support the amendment.

MR. KANNARA GOPALA PANIKKAR : നിയമവിരുദ്ധമായ പണിമുടക്കിനെ വിവരിച്ചുപറയുന്ന ഒന്നാണ് മനു-ാംവകുപ്പ്. ഈ വിവരണം വച്ചുനോക്കിയാൽ തൊഴിലാളിമാർക്ക് അവരുടെ സങ്കടപരിഹാരം ഉണ്ടാക്കുന്നതിന് ഈ പണിമുടക്ക് ഔയുധമായി ഉപയോഗിക്കുവാൻ യാതൊരുവധത്തിലും സാധ്യമല്ലെന്നു കാണാവുന്നതാണ്. തൊഴിൽ പരമായും വ്യവസായപരമായും മറ്റുമുള്ള കാര്യങ്ങൾക്കല്ലാതെ ഈ പണിമുടക്ക് പ്രയോഗിക്കാൻ പാടില്ല എന്ന് നിശ്ചയിച്ചാൽ തൊഴിലാളികൾ മറ്റു പലവിധത്തിൽ ഇന്നനുഭവിച്ചുവരുന്ന അസമതങ്ങൾ പരിഹരിക്കപ്പെടുന്നതിന് വേറെ യാതൊരു മാർഗ്ഗവും കാണുന്നതല്ല. ഉദാഹരണമായി ഈ ബില്ലനുസരിച്ചു വേലക്കാരന് അവന്റെ രാഷ്ട്രീയമായ അവശതാപരിഹാരങ്ങൾക്കുവേണ്ടി പണിമുടക്കുവാൻ നിവർത്തിയില്ല. ഈ രാജ്യത്തെ ഏതൊരു ജനവാദഭാഗത്തെപ്പോലെയെന്നെയും തങ്ങളുടെ രാഷ്ട്രീയാവകാശങ്ങൾക്കുവേണ്ടി വാദിക്കുന്നതിനു തൊഴിലാളികൾക്കും അർഹതയും അവകാശവുമുണ്ട്. അവരുടെ രാഷ്ട്രീയാവകാശസമ്പാദനത്തിനുവേണ്ടി അവരുടെ ഏക ആയുധം—പണിമുടക്കുന്നതിനുള്ള അവകാശം—പ്രയോഗിച്ചുകൂടുന്നു പറയുന്നത് ഏതൊരു തത്വത്തെ അടിസ്ഥാനപ്പെടുത്തിയാണെന്നു മനസ്സിലാക്കുന്നില്ല. വേലക്കാരൻ എന്നും അടിമയായി മുതലാളിമാർക്ക് പണം സമ്പാദിക്കുന്നതിനുള്ള വെറും ആയുധങ്ങളായി കഴിയണമെന്നാണോ ഗവണ്മെന്റു വിചാരിക്കുന്നത്? വേലക്കാരനും ഈ രാജ്യത്തെ പെരുനാണെന്നു നാം ധരിക്കണം. രാഷ്ട്രീയമായ അവകാശങ്ങൾക്കുവേണ്ടി വാദിക്കുന്നതിനും അവയ്ക്കുവേണ്ടി പ്രവർത്തിക്കുന്നതിനും തൊഴിലാളികൾക്കും അവകാശമുള്ളതാണ്. ഇതിന്റെ രാഷ്ട്രീയമായ ഉദ്ദേശം വ്യക്തമാണ്. സ്വസംവാദരങ്ങളുടെ വ്യക്തിസ്വാതന്ത്ര്യത്തെ ഹനിക്കുന്ന ഈ ബില്ലിലെ

എന്നുപോലെയുള്ള മറ്റു വകുപ്പുകളും എടുത്തുകഴിയേണ്ടതു പൗരസ്വാതന്ത്ര്യത്തെ ബാധിക്കുന്ന ഏതൊരു പൗരനേറയും കടമയാകുന്നു. പൊതുജനങ്ങൾക്കും ചില അസൗകര്യങ്ങൾ ഉണ്ടാകാതെ പണിമുടക്കുവാൻ സാദ്ധ്യമല്ല. ഈ വകുപ്പുമൂലം പൊതുജനങ്ങൾക്ക് അസൗകര്യമുണ്ടാക്കുന്ന പണിമുടക്കുകൾ എല്ലാം കുറയ്ക്കുമാക്കിയിരിക്കുന്നു. ഇതിന്റെ അർത്ഥം വേർക്കാരൻ പണിമുടക്കുന്നതു കുറയ്ക്കുമാക്കുന്നതാണ്. പണിമുടക്കുക എന്നുള്ള അവകാശം സങ്കടപരിഹാരത്തിനായി വേർക്കാരൻ ജന്മസിദ്ധമായിട്ടുള്ള ഒരു അവകാശമാണ്. ഈ അവകാശത്തെ അപഹരിക്കുന്നതിന് ആർക്കും അധികാരവും അവകാശവുമില്ല. ഈ മനുഷ്യവകുപ്പുപോലെതന്നെ തൊഴിലാളികളുടെ വ്യക്തിസ്വാതന്ത്ര്യത്തെ ഇല്ലാതാക്കുന്നതും അവരുടെ പ്രവർത്തനസൗകര്യത്തെ നശിപ്പിക്കുന്നതുമായ പല വകുപ്പുകളും ഈ ബില്ലിൽ ഉൾപ്പെടുത്തേണ്ടതാണ്. ഈ വകുപ്പുകളെ എല്ലാം എടുത്തുകഴിയണമെന്നു പറഞ്ഞാൽ പൗരസ്വാതന്ത്ര്യത്തെ ബാധിക്കുന്നു എന്നുമാത്രമേ അതിനർത്ഥമുള്ളു. തൊഴിലാളികളുടെ അഭിമാനത്തെയും സ്വാതന്ത്ര്യത്തെയും പരിരക്ഷിക്കുന്നതിനുള്ള ഒരു യുക്തമായ ഈ പണിമുടക്ക്. അതിൽ കൈകടത്തുന്നത് ഒരിക്കലും ആശാസ്യമല്ല. പണിമുടക്കു പ്രയോഗത്തിൽ വരുത്തുവാനുള്ള സ്വാതന്ത്ര്യം ഓരോ തൊഴിലാളിക്കും ഉണ്ടായിരിക്കേണ്ടതാണ്. ഏതൊരു വിധത്തിലുള്ള പണിമുടക്കും പൊതുജനങ്ങൾക്കു അസൗകര്യമുണ്ടാക്കുമെന്നുള്ളതന്നു സംശയമില്ല. പൊതുജനങ്ങൾക്കു അസൗകര്യമുണ്ടാകാത്തവിധത്തിൽ ഒരു പണിമുടക്കു നടത്തുവാൻ സാധിക്കുന്നതുമല്ല. അതുമാത്രമല്ല പൊതുജനങ്ങൾക്ക് അസൗകര്യം ഉണ്ടാകുന്നതിൽമാത്രമേ പണിമുടക്കുകൊണ്ടു പ്രയോജനവും തൊഴിലാളിയുടെ സങ്കടപരിഹാരത്തിന് ഒരു മാർഗ്ഗവും ഉണ്ടാകയുള്ളൂ. പൊതുജനങ്ങൾക്കു പണിമുടക്ക് അസൗകര്യവും വിഷമവും ഉണ്ടാക്കുമ്പോൾ അവർ അതിൽ ഇടപെടുകയും തൊഴിലാളികളുടെ സങ്കടം പരിഹരിക്കത്തക്ക വിധത്തിലും സമാധാനപരവും ആയ ഒരു സന്ധിയുണ്ടാക്കുന്നതിനു പ്രവർത്തിക്കുകയുംചെയ്യും. അതുകൊണ്ട് പൊതുജനങ്ങൾക്ക് അസൗകര്യമുണ്ടാകുമെന്നുള്ള കാര്യം ഗണിക്കേണ്ട മാവശ്യമില്ല. അതുകൊണ്ട് പണിമുടക്കിനെ കുറയ്ക്കുമാക്കിത്തീർക്കുന്ന വ്യവസ്ഥകളോടുകൂടിയ മനുഷ്യവകുപ്പു എടുത്തുകഴിയണമെന്നുള്ള അഭിപ്രായത്തെ ഞാൻ ശക്തിയായ് അനുകൂലിക്കുന്നു.

MR. KOTTALIL P. ABRAHAM : Sir I also support the amendment moved by Mr. Joseph. I do so on the ground that this clause is couched in very vague terms. In my opinion the retention of the clause would do more harm than good to the labourers.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, I also support the amendment. Clause 16 (a) appears to me to strike at the root of what is called a sympathetic strike. If labourers have got the right to strike, certainly they have also got the right to strike sympathetically. Otherwise you would be denying to the labourer his right to strike. It is a well recognized custom in European countries that when one set of labourers strike work to redress their grievances, other labourers also may join them merely out of sympathy and nothing else. Now, Clause 16 (a) prevents that and makes it impossible for a small union, or a union which has not got great resources behind it, to enter on a strike. My view is that every facility should be given to small unions to enter on a strike. Clause 16 strikes at the root of this right. I for one am compelled to support this amendment though I am willing to leave Clause 16 (b) as it is. But I think it is impossible to support one portion and oppose another. Therefore I support the amendment of Mr. Joseph Vithayathil that the whole of Clause 16 be deleted.

MR. P. K. KUMARAN (*Kinnatnad cum Parur*); Sir, I also wish to support the amendment. I consider that Clause 16 will not be in the interests of labour. In my opinion nobody in Travancore, excepting the Government, will be safe if Clause 16 is put on the statute book. It provides in the hands of Government a dangerous weapon to be used at any moment. In my opinion the enactment of the clause will lead to undesirable consequences and will exasperate labourers. The conditions provided in the section, appear to my mind, to be so very vague, comprehensive and elastic as to be capable of any interpretation according to the mind of the Government. It will be extremely unfair and uncharitable to foist a piece of legislation on the vast majority of the population calculated to adversely affect their vital interests and I am afraid they will naturally be led to wish for a different state of circumstances altogether. On this important ground I support the motion for deleting Clause, 16.

MR. M. L. JANARDANA PILLAI: Sir I have very great pleasure in opposing the amendment. As the clause stands, it reads as follows:

"A strike or a lock-out shall be illegal which:

- (a) has any object other than the furtherance of a trade dispute within the trade or industry in which the strikers or employers locking out are engaged; and
- (b) is designed or calculated to inflict severe, general and prolonged hardship upon the community and thereby to compel Our Government to take or abstain from taking any particular course of action."

It is very clear that a strike or lock-out may be illegal only under certain important conditions. Practically it is hemmed in on all sides with several restrictions so that it is not so easy to declare a strike or lock-out illegal unless these formalities are gone through. These conditions are evidently provided for the good of labour, for the good of industries, for the good of society in general.

The object of the mover evidently is that no such restriction should be placed on labourers or employers but that a *carte blanche* should be given to both these people to do things as they like and to

create strikes and lock-outs and make all industrial and other activities in the country to come to a sudden stand-still. If it is only the fear that the strike as a weapon in the hands of the labourer will be ineffective if this provision is allowed. I can understand that position. No such idea has been put forth. The mover wants the whole clause to be deleted. That means, strikes and lock-outs must be the order of the day and there should be nothing done to make them illegal even under the worst circumstances. That is what it comes to according to the mover of the amendment.

What is it that we are asked to do with Clause 16 in the name of liberty, individual freedom and fundamental rights, very wide terms to be used. And this particular clause *viz.*, Clause 16, is called by the mover to be a repressive law when after all, it is only a copy of the enactment already in the statute book in British India.

MR. E. P. VARGHESE : Was there not an amendment tabled in the Imperial Assembly to repeal it?

MR. M. L. JANARDANA PILLAI : We will see first how that very clause came into existence. It was as a result of an enquiry conducted by eminent men on the matter. The amendment which my friend suggests now has not been accepted so far. Therefore, under the existing enactment, the clause is still there. It is still in force in British India. In the interests of those who enthusiastically pleaded for the deletion of it, with the permission of the House, I shall just read a statement from the speech of the Honourable Mr. V. V. Giri, Minister for Labour and Industries.

"The prosperity, happiness and well-being of the workers depend upon the prosperity and well-being of the industry. I call the workers the dominant partners in the industry. Capital will be locked unless the workers are prepared to run the industry. Therefore, cordial relations between the workers and the industrialists alone will keep up industry.

"Workers will have grievances and they have, therefore, a right and duty towards themselves to put forth their grievances and demands.

"But, unfortunately during the last three months workers and trade unions have been, putting themselves in the wrong by sudden strikes. During the 18 years of public life relating to trade unions I have taken a greater part in strikes than most people in India. Strike is a legitimate weapon on the side of the workers and nobody can deny this right

But, simply because you have the right to strike and have that weapon in your hands you cannot use that weapon lightly"

He further stated thus :

"The few disputes that have occurred during the last three months have convinced me most unfortunately that the workers, instead of putting the employers in the wrong are putting themselves in the wrong. They suddenly go on strike. They do not know all their grievances and after striking begin to construct their grievances."

Such is the testimony of no less a person than the Honourable Mr. Giri whose testimony, I am sure, the House will accept.

MR. E. P. VARGHESE : May I know the date of that speech?

MR. M. L. JANARDANA PILLAI : 18th November 1937.

[Mr. M. L. Janardana Pillai.]

It is well known, Sir, that if an employer has to live and carry on his industry successfully, he must be sufficiently prudent enough to avoid strikes as far as possible. It does not give any pleasure or profit to an employer to allow strikes. It dislocates all the industrial activities, it brings about economic loss to the country as a whole. The employer knows how his own banking account will be affected thereby. Therefore, he would be the last person to give an opportunity to the employees to strike work. He will use all methods possible to try to get at them in a friendly manner and see that no strike takes place.

Invariably, it has been the experience of the employer that it is not the labourer who thinks that a strike is necessary, but, it is somebody to whom it is a paying proposition, that thinks that it is necessary to declare a strike. It is his business to egg these labourers on so to say, to declare a strike. It is about such persons who come between the employer and the employee that you have to consider. I appeal to the good sense of the House to consider this aspect of the question.

How did such a piece of legislation come into being in western countries, we shall see for a moment. Various laws were being worked out year after year in factories. Finally, as a result of experience, conventions, usages and enactments were codified into legislative measures there and were subsequently introduced into British India. The framers of law here do take into consideration both the interests of the employer and the employee. It is never their intention that this machinery should have a break-down. On the other hand, they want to safeguard the interests of both the labourers and the employers. Such decision has been arrived at after a minute and searching enquiry conducted by a Royal Commission which toured throughout the length and breadth of India. The commission, it is known to all, inspected all the important industrial centres of India. It was only after a thorough inspection into the minute working of special industrial areas that the committee reported their decisions. Those decisions have been copied here in our Bill also. Every precaution has been taken to see that no strike is brought about either by the actions of the employer or the employee. In the interests of successful working of business, every endeavour has been made to prevent lock-outs and strikes. If at all strikes occur, for well-founded reasons, immediately the employer attends to the causes and thus the spread of unnecessary strikes is checked. That has been the experience everywhere.

By the deletion of Clause 16, as I said before, strikes and lock-outs may become the order of the day. In fact that is what is sought after by the deletion of the clause according to the mover. What is our position? In Travancore, which is preeminently an agricultural country thanks to a far sighted administration we are arranging to get cheap electric power. A large number of industrial enterprises are likely to come into existence shortly. There is no good in introducing this Bill without this clause. As the Law Member stated, it is essential in the

interests of both capital and labour that certain well defined rules and regulations are brought into being so that all institutions might satisfactorily work without detriment to all the parties. We in Travancore are just ushering in an era of industrial happiness and prosperity. To let the labourers strike as much as they like, bring about lock-outs, to give both capital and labour a free hand to do whatever they like, with no restrictions placed on them, that is a situation which we are now asked to commit ourselves to by accepting this amendment. Therefore I appeal to the House to consider this aspect of the matter very seriously and reject the amendment.

MR. KAYALAM PARAMESVARAN PILLAI: Sir, I rise to oppose the amendment. I think that those who supported the amendment have been under a thorough misconception and I trust that if their misconception is cleared, they will vote for me even though they have spoken against the clause and supported the amendment. It has been said that the clause is designed to repress strikes. I say no and I shall prove it. It has been said again that the intention of the clause is to repress sympathetic strikes. I say no. Under the clause strikes are allowed and so also what are called sympathetic strikes. If the honourable members will read the section *carefully* they will see all these in the section itself. It reads:

"A strike or lock-out shall be illegal which (a) has any object other than the furtherance of a trade dispute within the trade or industry in which the strikers or employers locking out are engaged and (b) is designed or calculated to inflict severe, general and prolonged hardship upon the community and thereby to compel Our Government to take or abstain from taking any particular course of action".

So, then, three things must combine or co-exist in order that a strike or lock-out may be illegal. The first factor is, the strike must happen beyond the particular trade or industry. That by itself will not make it illegal. There must also be a second factor, namely the strike must be designed or calculated to inflict severe, general and prolonged hardship upon the community. Even this is not sufficient to make the strike illegal. There must be a third factor too, namely, it must be calculated to compel Government to take or abstain from taking any particular course of action. These are the three conditions which must *coexist* in order that a strike may be treated as illegal. How does it follow from this provision that any ordinary strike is illegal? How does it follow from this that a sympathetic strike is illegal? Strikes are permitted and sympathetic strikes too are permitted. The only thing is, they should not be calculated to inflict *severe, general and prolonged* hardships on the community *and thereby* to compel Government to take a particular course of action or desist from a particular course of action. I ask the labour advocates: "Do you want a power to intimidate Government? Is it that you are advocating?" The members who supported the deletion of the clause stated that the Government are trying to repress strikes. I must say not only that that is not so but also that on the other hand, they are trying to get a power to

[Mr. Kayalam Paramesvaran Pillai.]

intimidate Government. I must with emphasis say that no labour interests or for that matter no community in the world can hope to prosper by getting a power to intimidate their Government. If any interests, especially the labour, want to prosper, it can only be by eliciting the general sympathy of the public as well as of the Government. After all, Government is only of the people and for the people.

Again, Sir, a strike is described as a *weapon*. That is perhaps misleading if interpreted literally. For, I am sure, everybody will agree that no strike can succeed unless it attracts the public *sympathy* and more so if it is a labour strike. Strike is not a weapon with which to subjugate the general public. It is public sympathy that is essential. Keeping this in mind, let us see how this particular kind of strike stands. This strike sought to be declared illegal must be designed or calculated to inflict severe, general and prolonged hardship upon the community. If so, it is not going to attract any public *sympathy*. Further, it must be intended to coerce Government or intimidate Government. In that case too, the strike is not going to attract public sympathy or support.

MR. E. P. VARGHESE : The expression used is "thereby to compel".

MR. KAYALAM PARAMESVARAN PILLAI : Yes. That is what you design to do. I am sure the honourable members of the House will not advocate the grant of a power to intimidate Government or to inflict severe, general and prolonged hardship upon the community.

MR. M. G. MATHEW : Is that intimidation ?

MR. KAYALAM PARAMESVARAN PILLAI : Yes, what else is it ?

MR. M. G. MATHEW : How ?

MR. KAYALAM PARAMESVARAN PILLAI : At present I do not propose to enter into a discussion of the various shades of interpretation. Everybody who reads the words will grant that the word "compel" is practically tantamount to intimidation. You can call it coercion if you want. I am asking, are these labour advocates advocating the cause of labour by asking for a power to intimidate Government. I use the word intimidate as it is the same thing as what is contained in the clause.

MR. E. P. VARGHESE : Then why was not that word put in ?

MR. KAYALAM PARAMESVARAN PILLAI : Sir, I will answer as one ancient philosopher, who said living is as good as dying and dying as good as living answered the question "Then why don't you die". He answered "because living is as good as to die".

MR. E. P. VARGHESE : Then may I ask, are those two words the same in law with special reference to this matter ?

MR. KAYALAM PARAMESVARAN PILLAI : That does not strictly arise at present. If my friend is only objecting to the word, it is open to him to suggest another. It is the general principle involved in the clause which requires consideration. A strike is sought to be made illegal if the three conditions set forth in the clause coexist but not other

wise. No body can hope to thrive if he alienates the public sympathy. Labour interests must particularly attract public sympathy. The general public do not take sides. They go into the merits of the case, unconsciously though it be and support the side that requires sympathy. I can understand an argument that a strike intended, say, to enhance representation in legislature should not be made illegal. That is what one honourable member suggested. But such a strike is perfectly legal under the clause.

Only you should not seek to inflict hardship on the general public and thereby to compel the Government. I request the honourable members to carefully consider this particular effect of the clause when they proceed to divide on it.

I must mention also that a strike ought to be influenced by economic reasons and not by any ulterior motives. If so the strike is likely to be within its own trade or industry and if it is within the trade or industry the strike would be legal even if it is calculated to compel the Government. Do the honourable members realise that fact? If they do so, then they would for the sake of labour interests ask that this clause be placed in the Statute book and acclaim it as a charter of the right to strike. If however you want to go beyond your own trade, and industry and seek to inflict hardship on the community and also thereby to compel the Government then it will not be allowed. That is all the effect of the clause. I said that strikes ought to be impelled by economic causes. But it has been found that they are in fact very often actuated by other dangerous reasons. This has been given expression to by the Report of the Royal Commission on Labour. On page 335 it is stated.

"At certain periods factors which were not economic had an important influence on industrial strife. The worst period of such unrest (1920-21) coincided with the occurrence of intensive political agitation."

Honourable members will mark the words "political agitation."

"A few strikes were organised by political leaders more frequently opponents of Government used their influence to intensify disputes which were economic in origin. Recently other influences have appeared. The spread of communism has affected the workers in certain places, particularly Bombay, and in the big mill strikes which have occurred there during the last few years communist leaders and organisations have played a leading part. Another new development has emerged in at least two recent strikes of importance in which some of those acting with the workers were also interested in the influence of the strike upon commodities and share markets. But although workers have been influenced by persons with nationalist communist or commercial ends to serve, we believe that there has rarely been a strike of any importance which has not been due, entirely or largely, to economic reasons."

These indicate some of the evil tendencies which labour should guard against. Labourers merely want to live in this world. Politically minded people may make them their tools for their own purposes which may or may not be good. If labourers knew the real object underlying the strikes that are sought to be made legal by the amendment, then they will say please save us from such advocacy.

[Mr. Kayalam Paramesvaran Pillai.]

Mr. Joseph Vithayathil criticised the drafting of the Bill. If there are defects, it is open to him to suggest proper amendments. We are now concerned only with the general principle involved. But I will say that after all even if there is any doubt or clouds in the phrasing of the clause, a prosecution cannot automatically take place. It can take place only with the sanction of the Government. That will be sufficient protection. Apart from that, I will say that the clause is practically the same as in British India and England. In England it is perhaps a little more rigorous than here. I will read the provision in England :

"Section 3 (1). It is hereby declared.

(a) that any strike is illegal if it

- (i) has any object other than or in addition to the furtherance of the trade dispute within the trade or industry in which the strikers are engaged and
- (ii) is a strike designed or calculated to coerce the Government either directly or by inflicting hardship upon the community."

Perhaps on a strict interpretation it is more rigorous than our provision. Certainly it is not less rigorous than ours. Even in that country where labour has got on so much and which had even labour ministers it is this provision that finds a place there. Similar is the provision that is found in the British Indian Act also. Recently the British Indian Act was renewed and it is in this form that the provision finds a place there. Therefore I would appeal to the House that they should consider the matter very carefully before coming to a decision. It is quite open to labour to induce and influence and even to coerce Government. But if it goes beyond its legitimate province it will not be allowed. That is what the clause does and nothing more and nothing less.

MR. V. K. VELAYADHAN: I support the amendment, I have been closely listening to the arguments advanced by the learned Law Member, but I still hold the view that in the interests of labour this Clause 16 has to be deleted. The Law Member has elucidated the conditions under which a strike becomes illegal. The Law Member has been arguing that under this clause even sympathetic strikes are allowed. I shall place for the consideration of the House an illustration. There are several coir factories in Alleppey. Suppose the workers in two factories, let it be the factories of Mr. K. C. Karunakaran and Mr. M. L. Janardana Pillai, are members of a trade union. Within the same factory there are several departments. In a particular department in the factory of Mr. Janardana Pillai there is a reduction of wages. Let us take that after exhausting all possible ways for settling amicably the dispute, the trade union consisting of the labourers in the factories of both the honourable members comes to the conclusion that a strike is necessary. Then in my humble opinion the dispute in furtherance of which the strike is declared may be deemed to be related to the factory of Mr. Janardana Pillai alone under this clause and this provision will go against the object of the workers. Even though they are the members of the trade union the object of the.....

MR. KAYALAM PARAMESVARAN PILLAI: Does not this clause say "the furtherance of trade dispute within the trade or industry....." and not within the factory of Mr. Karunakaran or Mr. Janardanan Pillai?

MR. V. K. VELAYUDHAN: "trade or industry in which the strikers or employers locking out are engaged." I do not know whether the workers in Mr. K. C. Karunakaran's factory will be workers engaged in the same trade or industry as in the other factory. Certainly that will be a matter for interpretation. I have my own doubts. Coming to the consequences of the strike, I cannot conceive of a strike in which there will be no hardship to the community. Community means and includes portion of the community. As I have already submitted in connection with the discussion on Clause 15 there cannot be any strike which does not involve any hardship at least to a portion of the community. A strike automatically includes some hardship at least to a portion of the community. The third condition is Government action. This Bill itself contains several provisions for the Government to interfere at least by way of conciliation. The matter in dispute may be referred to a court of enquiry or a conciliation board. That may be construed as action on the part of Government. All these conditions may exist even in the case of a perfectly legitimate strike. There will be no difficulty whatever to bring all manner of strikes however legal and justifiable they may be, under the purview of the Section. If there is a possibility of including even the most justifiable strikes under this clause then should we not reject it? That is the question. Everybody has agreed that the workers should be given the freedom to go on strike. The result of enacting this clause will be to take away that right from them. Therefore I strongly support the amendment for deleting this clause.

MR. E. SUBRAMANIA AIYER I oppose the motion. I am glad that my friend Mr. K. G. Kunjukrishna Pillai accepts the principle underlying Clause 16. For I attach considerable weight to the views of Mr. Kunjukrishna Pillai on labour problems. If then the principle is accepted let us see how the clause affects the labourers. The Law Member has taken considerable pains to place before the house a very clear analysis of what is contained in that clause and his exposition enables one to see that the clause does not curtail the freedom of the labourer to act as he pleases except to a very limited extent.

In this connection, may I invite the attention of the House to some of the words and phrases in the clause itself. If you admit that a strike under a certain circumstance require prohibition, the only question for consideration is what those circumstances are which make the exercise of the right to strike injurious to the public. Section 16 (1) says as follows.—

"A strike or a lock-out shall be illegal which—

(a) has any object other than the furtherance of a trade dispute etc. etc; and

[Mr. E. Subramania Aiyar.]

(b) is designed or calculated to inflict severe, general and prolonged hardship upon the community and thereby to compel Our Government to take or abstain from taking any particular course of action.

The questions whether there is a hardship whether such hardship is severe, whether the community is the victim of such hardship and whether it is a prolonged hardship these questions are matters of fact and not abstract questions to be discussed. In a court of law cases are not decided and discussed in the abstract as in the laboratory of schools. In this clause particular care has been taken in my view to put the matter very high—that is to say the strike or lock-out should tend to inflict severe, general prolonged hardship upon the community; it should also compel the Government which is constituted for the purpose of promoting and advancing the prosperity of the people to take a particular course of action or abstain from taking any particular course of action. But if the strike is not calculated or designed to produce these results it is not illegal. That is the ultimate test. In other words only such strikes as are organised and encouraged by groups of persons with the set purpose of bringing the Government on to its knees are declared illegal by the clause. No Government could afford to tolerate such organised activities.

MR. K. G. KUNJUKRISHNA PILLAI : Does it not strike my friend that a strike or lock-out may be illegal even without the provisions in the subsequent sub-clause (b) which speaks of causing prolonged hardship?

MR. KAYALAM PARAMESVARAN PILLAI : No, No. Sir, if you permit me to intervene, I may say that that does not mean what the honourable member states.

MR. E. SUBRAMANIA AIYAR My interpretation of the section also does not allow me to take the view of my honourable friend Mr. K. G. Kunjukrishna Pillai because the necessary condition for a strike to be considered illegal is the conditions given in sub-clauses (a) and (b). Coming to that point, I am not going to leave it there. I was trying to show that more than sufficient care has been taken to see that the right to strike which has been recognised by this statute is not interfered with except in one particular instance *viz.*, when a rival organisation in opposition to Government is set up to compel the Government to take a particular course of action.

MR. JOSEPH VITHAYATHIL : Does my friend say that constitutional agitation is an activity of a rival organisation?

MR. E. SUBRAMANIA AIYAR : It is always a question of degree when we are dealing with a particular phase of the activity of the agitators. What one may think as a constitutional activity another may think as unconstitutional. That apart a strike or lock-out is not made illegal even if sub-clause (b) is satisfied. If the object is only the furtherance of a trade dispute, then even if the strike causes or is calculated to inflict severe prolonged hardship upon the community an

Government be compelled to take a particular course of action the strike or lock-out does not become illegal. The position is that the statute is meant to settle dispute between the employer and the employee, and to minimise as far as possible a sort of class war which is occasioned between the employer and the employee. That is the primary object of the Government. If that is conceded we may ask how far we shall allow these disputes to continue. How far shall we tolerate this class war? Clause 16 says:—Class war we shall tolerate to a certain extent; we shall permit the employer and the employee to fight their battle within certain limit; the danger zone is reached when the class war is started and pursued to cripple the Government.

MR. JOSEPH VITHAYATHIL: Are there two objects in strikes, one the furtherance of trade disputes and the other to bring the Government to its knees?

MR. E. SUBRAMANIA AIYAR: Strikes may arise in consequence of a dispute. Even without disputes between the employer and the employee a strike might be started. If a strike arises in furtherance of trade disputes it is perfectly legal. But if it arises for the consummation of some other objects it may be either legal or illegal. I do not say that an agitation for the furtherance of trade disputes or for the amelioration of the condition of the employees is not constitutional even if the position of the Government is made embarrassing Constitutional agitations are certainly permissible. The right to agitate constitutionally is inherent with every citizen. And the statute does not touch this right.

(At this stage the President took the Chair).

If there is a strike in Russia you can carry on a strike, a sympathetic strike, here also. If one such takes place in America, you may start one here also in sympathy with it. The merits of the strike in those places need not be looked into. But sympathetic strikes do not deserve the same treatment as strikes in furtherance of trade disputes. It appears to me that the limitation of sympathetic strikes imposed by Clause 16 is perfectly justifiable. With these words I oppose the amendment.

MR. THARIATHU KUNJITHOMMEN : സർ, ഞാൻ ഈ ഭേദഗതിയെ ബലമായി പിൻതാങ്ങുന്നു. ഓരോ നിയമങ്ങളും, അവയിലെ ഓരോ വകുപ്പുകൾ തന്നെയും ഓരോ രാജ്യത്തെയും ജനസാമാന്യത്തിന്റെ ആവശ്യമനുസരിച്ച് നടപ്പിൽ വരുത്തേണ്ടവയാണ്. ആ നിലയിൽ നോക്കുമ്പോൾ ഇവിടത്തെ ഭൂരിപക്ഷക്കാരും സാധുക്കളുമായ വേലക്കാരെ ഈ മാതിരി ഒരു നിയമംകൊണ്ട് നിയന്ത്രിക്കേണ്ട ആവശ്യമുണ്ടെന്നു ഞാൻ വാചാരിക്കുന്നില്ല. കൂട്ടമായി യോജിച്ച് അവരുടെ ആവശ്യങ്ങൾ സാധിക്കുന്നതിലേക്കു മാറിനിൽക്കുന്നത് ജയിലിൽ പോകത്തക്ക കുറ്റമാണെന്നുവന്നാൽ അവരുടെ സ്ഥിതി എത്ര ദുരനിയമായിരിക്കും? മറ്റു പല രാജ്യങ്ങളിലും ലേബറേഴ്സിന് ശക്തിയേറിയ

[Mr. Thariathu Kunjithommen.]

സംഘടനയും വലിയ ഫണ്ടും ഉണ്ട്. അതിനാൽ കുറെക്കാലം വേല ചെയ്യാതെ ഇരിക്കുന്നതുകൊണ്ട് അവർക്ക് പട്ടിണിയും കഷ്ടതയും വരാറില്ല. എന്നാൽ ഇവിടത്തെ സ്ഥിതി അതല്ല. വസ്രധാരണത്തിനും ആഹാരത്തിനും കുടുംബസംരക്ഷണത്തിനും എന്നുവേണ്ട സകലതിനും പ്രതിദിനം വേലചെയ്യാതെ മാറ്റമില്ല. അതിനാൽ നിവർത്തിയുണ്ടെങ്കിൽ അവർ വേലക്കുപോകാതിരിക്കുകല്ല. ഈ നിലയിലിരിക്കുന്ന ഇവിടത്തെ കൂലിക്കാർ വേലക്കുപേകോടെ കൂട്ടമായിചേർന്ന് മാറിനിൽക്കണമെങ്കിൽ അതിന് തക്കതായ കാരണമുണ്ടാകണം. അങ്ങിനെമാറി നിൽക്കുന്ന അവസരത്തിൽ അവരെ ശിക്ഷിക്കും എന്നുവന്നാൽ അവരുടെ സങ്കടപരിഹാരത്തിനുമറ്റൊന്നാണ് മാർഗ്ഗം? അവർക്ക് ഈ സഭയിൽ അവരായ് തിരഞ്ഞെടുക്കപ്പെട്ട പ്രാറിനിധികളല്ല. ഈ രാജ്യത്തിന്റെ സകല ഐശ്വര്യത്തിനും വേണ്ടി വേലക്കാരാണ് വേലചെയ്യുന്നത്. സാധുക്കളും പീഡിതരും ദരിദ്രരുമായ ഇവരുടെ കാര്യമാണ് നാം പ്രധാനമായി ഗണിക്കേണ്ടത്. ഇങ്ങിനെയുള്ള നിയമങ്ങൾ പാസ്സാക്കി അവരുടെ പുരോഗതിയെ തടയുന്നത് നമുക്കൊരിക്കലും ഭൂഷണമല്ല. അവരുടെ പ്രവർത്തനങ്ങൾ രാജ്യത്തെ വ്യവസായാഭിവൃദ്ധിക്കൊ അല്ലെങ്കിൽ നീതിസംരക്ഷണവിഷയത്തിൽ ഉള്ള ഗവണ്മെന്റിന്റെ പ്രവർത്തികൾക്കൊ വലിയ തടസ്സമായിക്കൊണ്ടുവെങ്കിൽ ഇതുപോലെയൊ ഇതിൽ കൂടുതൽ ശക്തിയുള്ളതൊ ആയ നിയമവ്യവസ്ഥകൾ കൊണ്ട് അവരെ നിയന്ത്രിക്കാം. അങ്ങിനെ നിയമമുണ്ടാക്കേണ്ടിവരികയാണെങ്കിൽ നമുക്കു അതിലേക്കു വേണ്ട സൗകര്യമുണ്ടുതാനും. ഇസേഭതന്നെ ആണ്ടിൽ മൂന്നുതവണ കൂടാറുണ്ട്. ഏതെങ്കിലും പ്രകാരത്തിൽ കൂലിക്കാരുടെ സപ്താഹത്തും നിയന്ത്രിക്കേണ്ട അത്യാവശ്യമുണ്ടെന്നുതോന്നുമ്പോൾ ജനഭാഗത്തുനിന്നോ അല്ലെങ്കിൽ ഗവണ്മെന്റുഭാഗത്തുനിന്നോ ഒരു ബില്ലുകൊണ്ടു വന്നു ക്ഷണേന നമുക്കു പാസാക്കുവാൻ കഴിയും. അതല്ലാതെ ആപത്തു വരും എന്നു പറഞ്ഞുകൊണ്ട് ഇങ്ങനെയൊരു നിയമപാസ്സാക്കി സാധുജനങ്ങളെ വെറുതെ ബുദ്ധിമുട്ടിക്കേണ്ട യാതൊരാവശ്യവുമില്ലാതെ ഇല്ല. ഈ രാജ്യത്തു് ഏറ്റവും തൊണ്ണൂറും കൂലിവേലക്കാരാണ്. എല്ലാ സമുദായത്തിലും കൂലിവേലക്കാരാണ്. ചില സമുദായങ്ങളിൽ ഏറ്റവും തൊണ്ണൂററിന്റെ പത്തും കൂലിവേലക്കാരാണ്. അടിമന്റർപ്പാട് നടപ്പിലുണ്ടായിരുന്നകാലത്തു് പോലും അവരെ ജയിലിലാക്കുകയും ശിക്ഷിക്കുകയും ചെയ്യാറില്ലായിരുന്നു. ധർമ്മരാജ്യത്തിന്റെ ഐശ്വര്യത്തിനായി നിരന്തരം പ്ര

വർത്തിക്കുന്ന ഈ ജനങ്ങളെ അടിമകളെക്കാളും താണനിലയിൽ ജയിലി
ലേക്കു തള്ളിവിടുകയാണെങ്കിൽ അത് പരമകഷ്ടമായ ഒരു സ്ഥയായി
രിക്കും. അതിനാൽ അവരുടെ രക്ഷയെ ഉദ്ദേശിച്ച്, ഞാൻ ഈ ഭേദഗ
തിയെ ബലമായി പിൻതാങ്ങുന്നു.

MR. JOSEPH VITHAYATHIL: Sir, I would like to speak a few words by way of reply. The Law Member stated that sympathetic strikes are not made illegal. Also, strikes which are intended to inflict severe, general and prolonged hardship upon the community and thereby to compel Government to take a course of action, are also not made illegal in themselves. If only both these conditions exist then a strike is made illegal. I cannot understand the principle involved in it. A strike by itself is allowed. A sympathetic strike also is allowed. How does it become an offence when the strike is sympathetic and also intended to inflict severe, general and prolonged hardship on the community? To me it is not an acceptable proposition. What is the logical relationship between these two things? I do not find any.

My friend Mr. E. Subramania Aiyar was saying that there are very many limitations to this clause so that it is very difficult to bring a strike within the purview of this Section. What I submit is this: the strike in itself is not an offence. An incitement to strike is sought to be punished under S. 17. So then actual strike need not take place. If any labourer is instigated to strike that is an offence. It is for the magistrate, the trial court to say whether any prolonged hardship, etc., would have been caused and whether the strike was in furtherance of a trade dispute in a particular trade or otherwise. The persons who actually strike are not punished but the man who instigates is punished. It is very easy for a magistrate to say that strikes which did not actually take place would have caused these results.

And, what are they? They are very vague. The position is so very uncertain that nobody, interested in labour movement can, boldly, advise a union with regard to the action to be taken by the union for getting its grievances redressed. These are the reasons that actuated me to move for the deletion of the clause.

MR. KAYALAM PARAMESVARAN PILLAI: Sir, I am glad to note that the honourable mover of the amendment has accepted the correctness of my points. He has now recognised that a sympathetic strike is permissible under the clause, provided it is not designed or calculated to inflict severe, general and prolonged hardship upon the community and thereby to compel the Government. Thus neither the ordinary strike nor the sympathetic strike is sought to be repressed by the Bill. Let us once and for ever recognise that. But the mover says that he wants power also to inflict severe, general and prolonged hardship on the community with also the power to compel the Government to some line of action. Why, I ask? Why should anybody, in the interest of labour, ask for a power to inflict hardship upon the community or to compel Government? Not only is it unnecessary but it is even injurious

[Mr. Kayalam Paramesvaran Pillai.]

to labour interests. If Mr. Joseph were of the opinion that strikes are likely to become impossible because of this clause I am sure, he would have clearly mentioned it. But he has not. If he had urged that various unnecessary restrictions were being sought to be imposed on strikes I could understand his position. But he has not. He has not complained that sympathetic strikes are sought to be penalised under this provision. Nor has he stated that strikes are made difficult. So then the real position is this. Ordinary strikes i. e. strikes within a particular trade or industry are allowed. Sympathetic strikes too are permissible. That being so, I would ask the simple question why does he want on behalf of labour a power to inflict severe, general and prolonged hardship upon the community? Why does he want a power to compel Government, and that in the interests of labour? If real labour were here or they could find here either a tongue to speak or a heart to feel, they would surely say that Government is their best friend and it is from Government and from the public that they get relief. Unfortunately, as the honourable member said, labour is not directly represented here. Nor perhaps is it true that a labourer is always able to express his own views in his own interest. Rightly or wrongly, they are guided by certain forces. But let us act in the interests of labour and of the general public, the dumb millions of the people of Travancore. I have already stated that labour does not stand to gain by political alliances. They have their own aims and ideals to achieve, and that is right. Let us not drag them into political controversies. Let us not make him a weapon for a political fight. The mover of the amendment has no doubt definitely said that it is not out of political motives he urges the deletion of the clause. Then why does he in the interest of labour claim a power to inflict hardship on the community? I had expected an answer from Mr. Joseph on that point; but no reply was forthcoming. Though many may have spoken in favour of the amendment, I trust that when it comes to division they will reconsider their views and vote on my side. There is nothing wrong in that procedure. The members were originally under some misconception. Now that has been cleared up. They concede that sympathetic strikes too are not prohibited. Mr. E. Subramania Aiyar pointed out that if there is a strike in Soviet Russia, the workers here can strike. What more is needed for the labourers? (*Laughter*) If there is a petrol strike in America, the coir factory labourers at Alleppey too can strike though no purpose may be served by it.

PRESIDENT: The House will now adjourn and meet again the next day at 11 A. M.

The Assembly adjourned at 5 P. M.

E. I. CHACKO,
Secretary to the Sri Mulam Assembly.